1742.

SUPREME COURT OF THE UNITED STATES.

DECEMBER TERM, 1850.—No. 139.

JOHN GLENN AND CHARLES M. THRUSTON, APPELLANTS,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT, UNITED STATES, FOR ARKANSAS.

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[Gideon, Print.]

UNITED STATES OF AMERICA,
District of Arkansas.

In the district court of the United States, for the district of Arkansas, sitting for the adjudication of unconfirmed French and Spanish land claims, on the 23d day of April, A. D. 1849.

JOHN GLENN and Charles M. Thruston, complainants,
vs.
THE UNITED STATES OF AMERICA, defendants.
} Petition, &c.

Petition.

To the honorable the judge of the district court of the United States, for the district of Arkansas:

Respectfully show, John Glenn, of the State of Maryland, and Charles M. Thruston, of the State of Kentucky, that on the first day of August, A. D. 1796, James Clamorgan, who was then residing in the province of Upper Louisiana, and engaged in the service of the King of Spain, in which service, and as representative and director of the Missouri Fur Company, he had sustained heavy losses never reimbursed to him, although acknowledged to have been sustained, addressed and presented his petition to Don Carlos Dehault Delassus, lieutenant colonel in the army of the King of Spain, and commandant military and civil by patent from the governor general of the province of Louisiana, of and at the post and dependency of New Madrid, and by virtue of said patent and office, a sub-delegate for said post and district, authorized by the laws of Spain, and the regulations, usages, and customs of said province, to make concessions of land from the royal domain, to an unlimited extent, for purposes of settlement and cultivation, or as rewards for services rendered the Crown, and who afterwards, in the year 1799, became lieutenant governor of the province of Upper Louisiana, and so continued until the cession of Louisiana to the United States, and was, in the year 1796, by courtesy styled lieutenant governor of said post and dependency of New Madrid.

By which petition, addressed to said Delassus, as lieutenant colonel of the stationary regiment of Louisiana, and lieutenant governor of the village and dependency of New Madrid, the said James Clamorgan, styling himself merchant, residing in the town of St. Louis, represented that he had been strongly encouraged by the governor general of Louisiana to establish a manufactory of cordage for the use of his Majesty's navy, and to supply the Havana; that he had been by the governor peculiarly recommended to said commandant; that, inasmuch as he was connected in correspondence and interest with a powerful house

in Canada, they might thereafter procure a sufficient number of farmers to emigrate thence to Upper Louisiana, and teach the cultivation of hemp, and its fabrication into cordage. That to this end he had made pressing demands on his correspondents in Montreal, to obtain a considerable number of people accustomed to this culture, whom the petitioner represented they were obliged, by necessity, to attract to Upper Louisiana, although, at that time, political circumstances in Canada appeared opposed to it, but that in more favorable times this object might unquestionably be attained.

And he further, by said petition, represented, that it was necessary for him, in the mean while, to secure beforehand a title which would guarantee to him the proprietorship of a quantity of land proportionate to his views, in order to make an extensive establishment, as soon as circumstances should appear favorable to his undertaking; and when his correspondents should be able, without compromitting their sense of duty, to cause to emigrate to Upper Louisiana a sufficient number of people, to commence the cultivation of hemp, so much desired by the Government. Wherefore, in order that the execution of his project might be favored, and means furnished him to attract thereafter, from a foreign country, an emigration of husbandmen, which he represented might not, perhaps, be obtained until after a considerable lapse of time, and then only by promises of rewards, which he would be obliged to fulfil, he prayed for a grant, in the name of the King, of a tract of land, described in said petition as follows: " The tract of land which lies along the edge of the western bank of the Mississippi river, to begin at the place which is opposite the head of an island which is situated at about one hundred arpens below the Little Prairie which lies at the distance of about thirty miles below the village of New Madrid, in descending the current, and continuing to descend to such point as that one may be placed on the same western bank right opposite the outlet commonly known by the name of the river à Carbono, whose embouchure is on the eastern side of the Mississippi; to the end that, from the said place, situated as has been hereinbefore designated, situated right opposite the outlet of said river à Carbono, there may be drawn, running inland for depth, due southwest, or in nearly that direction, a line which shall be prolonged parallel with one to be drawn from the point situated opposite the head of the island, lying as aforesaid, about a hundred arpens below said Little Prairie. The prolongation of these two said lines of depth to be equally continued in a direction nearly southwest, and to serve as boundaries for each of these opposite sides, until the extremities of said two lines shall be sufficiently prolonged to reach, in the same direction, the bank of those branches of the river St. Francis which are most distant from the river Mississippi; which banks of the river St. Francis shall serve as bound and limit to the third side of the tract demanded, and the banks of the Mississippi shall form the fourth, commencing from the head of said island of the Little Prairie, whereof mention has been made before; thence descending the current on the western side of the point, situated right opposite said river called the

river Carbono, [illegible] prayed for, in order that, as soon as it might be within his power, within the same he might select and improve that part most suitable for the cultivation of hemp.

And he further represented, that a great part of said tract being overflowed by ponds and impracticable low swamps, it would prevent the improving of the whole in all its extent; and prayed that he might enjoy the whole, and dispose of the same forever, as of a property belonging to him, his heirs, or assigns; and even to distribute the said lands, or parts of them, if he should think proper, in favor of such person or persons as he might think fit, to obtain as far as possible the accomplishment of his said project.

Which petition, and many services and eminent worth of said petitioner, being duly considered and weighed by said commandant and sub-delegate, as also the particular recommendations of the governor general, the Baron de Carondelet, whereby said commandant had been directed, to seek by all means the mode of increasing the population of the province, and encouraging agriculture in all its branches, and especially the culture of hemp; having also considered the miserable condition of the province, and the thinness of its population, and the fact that the plan of the petitioner would contribute to encourage and further the cultivation of hemp, the said commandant and sub-delegate, on the ninth day of August, 1796, by his concession of that date, by virtue of the plenary authority in him vested, as aforesaid, and in accordance with the liberal and benign policy of the Spanish government, did formally and absolutely grant to the said James Clamorgan the land he so prayed for, to him and to his heirs, in the place, and within the identical limits asked for; provided, only, that it was not prejudicial to any person; and said concession required, that when the petitioner should establish said land he should have it surveyed, not compelling him to have it done immediately, as its extent was so considerable that it would occasion a ruinous expense to him if he were to have it surveyed before the arrival of the families for which he was to send to Canada, but that as soon as they should arrive, and he should settle them on said land, then he should secure his property by having the same surveyed, in order afterwards to have recourse to the governor general, to obtain his approbation and title in form for said concession.

All of which will more fully appear by copies of said original petition and concession, from the office of the recorder of land titles, at St. Louis, Missouri, with accurate translations of the same, which are herewith exhibited, marked together A, and numbered from one to four, inclusive, and prayed to be taken and considered as a part of this petition.

Your petitioner further represents, that said concession, when made, was prejudicial to no other person whatever, inasmuch as the whole of said land embraced therein was unoccupied, or at least no other person had any inchoate or other title to *to* any part thereof; and it lay in a region then unexplored, commencing in the swamps of the Mississippi, and running back into the barbarous wildernesses on the river St. Francis. They further represent, that not only did a considerable time

elapse from the date of said concession [illegible] surveyor was appointed for said province of Upper Louisiana, but also that the wars between Spain and England, and between France and England, raging when said concession was made, (and which was the political reason mentioned in said petition why the correspondents in Montreal of said Clamorgan could not then, nor would for some time, be able to procure emigrants as proposed in said petition,) continued to prevent such emigration, and the carrying out of the project or performance of the plan and obligation of said Clamorgan until the cession of said province of Louisiana by Spain to France, and the subsequent cession thereof by France to the United States.

In consequence whereof said James Clamorgan, not having procured a survey of said tract of land until said last cession took place, he did, soon thereafter, cause a survey thereof to be made, which occupied from the thirtieth day of January to the twelfth day of February, within the year of our Lord 1806, and thereafter caused said grant and survey to be recorded in the office of the recorder of land titles, in the State of Missouri, in accordance with the act of Congress of March 3d, 1805, as by said exhibit A; and also by an authenticated copy of said survey and the plat accompanying the same, and recorded therewith, from the records of the office aforesaid, which are herewith exhibited, marked together B, and numbered one and two will fully, and at large appear.

By which several exhibits it will also appear, that said concession includes and grants the quantity of five hundred and thirty-six thousand nine hundred and four arpents and twenty-nine perches of land, as the same was afterwards surveyed in manner hereinafter mentioned, in that the boundaries of said tract, as surveyed, were as follows: Beginning at two large sycamores, marked C, on the bank of the Mississippi, running up the same, and following the meanders thereof, to a large cotton wood and two sycamores marked C, on the bank, at one hundred and ninety-five poles west, and five thousand eight hundred and forty-seven poles north, from the beginning, and crossing the river Pemiscoe near the mouth thereof; then from the cotton wood and two sycamores aforesaid, opposite the middle of the island au Potier, running south 45° west, 2,504 poles, to a sycamore and pecan wood on the bank of Pemiscoe, after crossing the same at 1056 and at 3036 poles; thence N. 45° W., 1734 poles, to two elms, marked C, after crossing Pemiscoe at 670, and 1020 poles; thence S. 45° W., 6023 poles, to the middle fork of St. Francis, running east of south crossing the same, and from thence keeping the same course, 3710 poles, to a sycamore and hackberry, on the south bank of the east fork of St. Francis river, running southeast; thence south 10° W., 6572 poles, down the said fork, crossing the same several times, to a sycamore and willow marked C, on the bank of the river, and from thence to the beginning.

But your petitioners represent that they are utterly unable to understand upon what data said survey was made, inasmuch as it wholly departs from said grant and concession, and does not at all follow its terms, as by a comparison thereof with said concession will appear. They represent that, although said survey was received for record by

the surveyor general, [illegible] Soulard, it has never been affirmed as correct, or even recognised as official by the proper department, or by any authority of the Government of the United States. They further represent that said tract of land is, really and truly, according to said grant, included in the lines and bounds following, to wit, on the eastward the bank of the Mississippi river, as it existed when said concession was made, whereby is included in said tract the island designated in said plat as Pointe Aux Alisés, now known as island at Needham's Cut-off, inasmuch as the same has become an island by a cut-off made since said concession; on the westward, the last, furthest, and most westwardly fork or branch of the St. Francis river; and on the northward and southward two parallel lines running due southwest, one from the place opposite the head of an island about a hundred arpens below Little Prairie, and the other from opposite the mouth of said river à Carbono, now known as Forked Deer river; as is represented, *and* proper plat thereof, which will hereafter be herewith exhibited marked C, and prayed to be taken as part of this petition.

Your petitioners further represent that said tract of land lies partly in the State of Missouri, but principally in the State of Arkansas, and they represent that said claim and concession would unquestionably have been perfected into a complete title by the laws of Spain, and the regulations, usages, and customs of Spain, and the province of Louisiana, if said province had not been ceded by Spain to France, and by the latter to the United States.

Your petitioners further represent that the proper notice of the nature and extent of said claim, with the concession, survey, and plat aforesaid, and every written evidence of said claim having been given according to law to the recorder of land titles at Saint Louis, and the same having been duly recorded, the said claim was duly presented for confirmation to the board of commissioners for the Territory of Louisiana, sitting at St. Louis, in the year 1811, and was on the twentieth day of August, in that year, reported against and rejected by said commissioners, in consequence of their determination and opinion that no claim larger than a league square ought ever to be confirmed, and for no other reason; which opinion and determination has been since that time totally overthrown.

And afterwards, under the act of 26th May, 1824, a petition upon said claim was filed in the district court of the United States, for the district of the Missouri, but abandoned in consequence of the decision of that court rejecting divers like claims upon the general ground that lieutenant governors were not authorized by the laws, usages, and customs of Spain to make grants of land; an opinion totally unfounded in fact and law, but still rendering further prosecution of said claim useless, until the decision of the Supreme Court of the United States could be had in the other cases so decided; which decision, reversing said opinion and judgment of the district aforesaid, was not given until the January term, A. D. 1835; before which time the period limited for bringing suits by petition on such claims had expired.

And afterwards, under the act of 9th July, 1832, the said claim was

presented for confirmation to the board of commissioners for Missouri, and disallowed by that board on the 26th of August, 1835, the board being unanimously of opinion that it ought not to be confirmed; the conditions not having been complied with, and opinion and determination at war both with law and fact, and unsustained by either. And they further represent that no other decision has ever been made against or in regard to said claim, except as aforesaid, on the respective grounds aforesaid.

Your petitioners further represent that, on the second day of May, A. D. 1809, the said James Clamorgan, by deed of that date, then executed on the same day, duly acknowledged according to the laws of the Territory of Louisiana, and on the 27th day of December, 1814, recorded in the county of New Madrid, in the Territory of Missouri, conveyed said land and concession to one Pierre Chouteau; who on the 17th day of March, A. D. 1815, by deed of that date then executed, duly acknowledged according to the laws of the Territory of Missouri, on the second day of December, A. D. 1815, and recorded in the same county on the thirteenth day of December, A. D. 1815, conveyed one moiety thereof to Charles Dehault Delassus; who on the fourteenth day of October, A. D. 1836, by deed of that date then executed, and on the day of its date duly acknowledged according to the laws of the State of Missouri, conveyed said moiety to Maria Philip Leduc; and on the first day of June, A. D. 1837, by a deed of that date, then executed on the day of its date, duly acknowledged according to the laws of said State, and on the fifteenth day of December, 1837, duly recorded in said county of New Madrid, the said Pierre Chouteau and Maria Philip Leduc, conveyed the whole of said claim to your petitioners; all which, by copies of the first, second, and fourth of said last mentioned deeds from the records of said county of New Madrid, and by a copy of said third deed from the files of the circuit court of the county of St. Louis, in the State of Missouri; all which are herewith exhibited, marked respectively D, E, F, and G, and prayed to be taken as part of this petition, will more fully and at large appear.

Wherefore, inasmuch as the performance of the conditions of said concession was rendered impossible by the cession of the province of Louisiana, and said concession thereby became, if it was not before, absolute and complete. Your petitioners pray that the validity of said concession and claim to confirmation may be inquired into; that said claim may be re-surveyed under the order of this honorable court, and the title and claim of your petitioners to said tract of land, bounded and described as in said original petition, and new and authentic survey, may be confirmed as against the United States; and for citation to the attorney of the United States, &c.; and they will ever pray.

JOHN GLENN and
CHARLES M. THRUSTON.
By PIKE & BALDWIN,
Solicitors.

Filed 24th January, 1846, and writ issued same day.
Attest: WM. FIELD, *Clerk.*

A, No. 1.

A. Monsieur:

Monsieur Don Charles Dehault Delassus, lieutenant colonel au regiment fixe de la Louisiane, et lieutenant gouverneur de la N'e Madrid et dependance.

Jaques Clamorgan, negt, demeurant en la ville de St. Louis, a l'honneur de vous exposer qu'il auroit été vivement encouragé par son excellence, M. le gouverneur général de cette province, pour former l'établissement d'une manufacture de cordage proper et convenable à l'usage des vaisseaux de sa Majesté, et specialment pour les besoins de la Havane, ou son excellence de sire que le supliant les fassent passer sous sa protection conformement aux avis qu'il vous en a donné, pour que dans tous les cas le supliant puisse avoir recours à vos bontés pour le favoriser de tous vos pouvoirs dans une entreprise qui peut devenir très importante à la prosperité de cette dependance, et très lucrative par la suitte à tous les habitans de la haute Louisiane; d'autant mieux que le supliant se trouve lié de correspondance et d'intérêt avec une puissante maison du Canada, que peut lui procurer par la suite un nombre suffisant de cultivateurs pour enseigner en ces lieux la maniere de travailler le chauvre et en fabriquer les different cordages de la façon la plus parfaite, âfin de repondre par la aux vues du gouvernment général qui en desire l'entreprise par tous les moyens justes et honnêtes qu'il sera possible de mettre en usage pour dispenser sa Majesté de tirer à l'avenir, de l'etranger cet objet important a l'equipement de ses vaisseaux. C'est dans cette espérance que le supliant a mis en activité les demandes les plus pressantes pour obtenir de ses correspondents de Montreal, un nombre considerable de gens propres à cette culture que la necessité exige d'attirer en ce lieu quoique dans ce moment les circonstances politiques du Canada semblent s'y opposer, mais que des temps plus heureux pourront indubitablement effectuér à l'avenir, nonobstant quoi le supliant est obligé de s'assurer d'avance aupres de vous, Monsieur, d'un titre qui lui garantisse la proprieté d'une quantité de terre cultivable et proportionee à ses vues pour former un vaste etablissement des que les moments paraîtront favorables à son entreprise, et des que ses correspondents pourront sans compromettre leur delicatesse faire emigrer en ce lieu la quantité de sujets necessaire à donner naissance à cette culture si desirée par le gouvernment.

D'après l'exposé du supliant, Monsieur, et d'après les recommandations particulieres de son excellence, le gouverneur général de la province, il espere que vous voudrez bien lui accorder la quantité de terre qu'il desire obtenir, autant pour le favoriser dans l'éxécution de tout ce qui pourra contribuer à la prosperité future de son projèt comme pour lui faciliter le moyen d'attirer par la suite de chez l'étranger une emigration de cultivateurs qui ne pourra peut-êtte s'obtenir qu'après un laps de temps considerable sur des promesses de recompense que le

supliant sera obligé d'accomplir en leur faveur, pour raison de quoi, il vous suplie de lui conceder au nom de sa Majesté, l'espace de terre qui se trouve sur le coté de la rive occidentale du fleuve Mississippy, à prendre depuis le lieu qui est vis-a-vis le pont d'une isle située à cent arpents environ plus bas que la Petite Prairie, laquelle est à peut pres trente mille de distance plus bas que la vilage de la Nouvelle Madrid, en descendant le courant, et continuant de le descendre, jusqu'à ce que sur le même côté occidental ou soit place en face de l'entrée vulgairement connue sous le nom de riviere à Carbono, dont l'embouchure est sur la rive orientale du Mississippy, àfin que du dit lieu ainsi qu'il est designé ci-devant, située en face de l'entrée de la susdite riviere Carbono, il soit tiré en avançant dans la profondeur du sudouest ou dependance une ligne qui devra se prolonger paralellement avec celle qui devra être situé du lieu qui est situé vis-a-vis le haut de l'isle qui se trouve ainsi qu'il est dit cy-dessus. A cent arpents environ plus bas que la susdite petite prairie, pour continuer egalement la prolongation de ces deux susdites lignes de profondeur dans la dependance du dit air-de-vent du sudouest et servir des bornes à chacun de ces cotés opposes, jusqu'à ce que l'extrémité de ces dites deux lignes soient suffisement prolongées, pour attendre sur la même direction le bord des branches de la riviere St. François, les plus eloignées du fleuve Mississipi, les quels bords de riviere St. François, serviront de borne et de limite au troisième côté de la terre demandée, et les bords du Mississipi formeront le quatrième à commencer depuis le haut de la susdite isle de la Petite Prairie, dont il est par le cy-dessus en descendant le courant du côté occidental jusqu'au lieu situé en face de la susdite riviere nommée riviere Carbono, afin que des qu'il sera au pouvoir du supliant, il puisse etablir et faire choix dans cette portion de terre demandée, celles que seront les plus convenables à mettre en usage pour la culture du chauvre, attendre qu'une grande partie des mêmes terres, se trouve noyée par des marais et pais bas impracticables qui empechent de pouvoir fixer des etablissemens dans toute l'etendue; se tout pour que le supliant en puisse jouir et disposer à toujours comme des choses à lui propre ses hoirs ou ayant causes, même de les distribuer ou en partie si bon lui semble en faveur de telle ou telles personnes qu'il jugera à propos pour parvenir autant qu'il dependra de lui à l'accomplissement de son projet, et le supliant ne discontinuera de rendre graces à vos bontés. Fait à la Nouvelle Madrid, à premier jour du mois d'Août de l'année mile sept cent quatre vingt seize.

J. CLAMORGAN.

A.—No. 2.

NUEVA MADRID, *a 9 de Agosto*, 1796.

Visto, por el expuesto contenido en esta peticion constare de me los medios del expediente y su nueva sociedad, con la casa de Tood, que podra facitarle el acierto de la empressa que la propone, cuyo provecho recuere se se logra en parte a beneficio de este remoto pays, y miserable

por la poca poblacion existente actualamente, y atteniendo a las recomendaciones particulares que me ha communicado el Señor Baron de Carondolet, gr. general de estas provincias, quando ha tenido a bien el nombrar de comandante de este puesto y sus dependencias, " da buscar por todos medios el modo de aumentar la poblacion y animar la agricultura, en todos sus ramos, y particularmente la del cananio paraciendo me las proposiciones que hace el exponiente conducentes al logro de esta ultima recomendacion En esta virtud le concedo para el y sus herederos la tierra que solicita en el paraje y en los mismos terminos que piede, si no perjudica a nadie, y asi que la *ico* estableciendo la mandara apear, no obligandolo a que lo verifique luego, por ser una extencion demasiado espacioso que le ocasionaria un gasto minoso si lo verificase antes de la llegada de las familias que debera hacer venir del Canada, pero asi que estas lleguen y las ponga en possession debera asegurarse sa propriedad mediante las operaciones de apeo para despues recursir al señor governador general para obtener la aprobacion y el titulo en forma de esta su concession.

CARLOS DEHAULT DELASSUS.

Recorded in book No. 3, pages nine, ten, eleven, twelve, and thirteen, [at] St. Louis, [this] twenty-seventh of December, [in] the year one thousand eight hundred and five.

ANTOINE SOULARD,
Surveyor General, Ty. Louisiana.

No. of Record, No. 7.

Exhibit A, (11.)—*Translation No.* 3.

To Monsieur.

Monsieur Don Carlos Dehault Delassus, lieutenant colonel of the stationary regiment of Louisiana, and lieutenant governor of the village and dependency of New Madrid.

James Clamorgan, merchant, residing in the town of St. Louis, has the honor to represent to you that he has been strongly encouraged by his excellency, Monsieur, the governor general of this province, to establish a manufactory of cordage fit and proper for the use of his Majesty's vessels, and especially for the necessities of the Havana, to which place his excellency desires the petitioner to export his cordage, under his protection, according to the advices which he has given you in regard thereto, in order that in all cases the petitioner might have recourse to your goodness, that he may be favored with all your power, in an enterprise which may become very important to the prosperity of this dependency, and very lucrative hereafter to all the inhabitants of this Upper Louisiana. So much the more, since the petitioner is now connected in correspondence and interest with a powerful house in Canada, which may procure for him hereafter a sufficient number of cultivators to teach in these regions the manner of cultivating hemp, and fabricating from it the various kinds of cordage in the most perfect manner;

so as thereby to respond to the views of general government, which desires this enterprise by all *all* proper and honest means which can possibly be used, in order to exempt his Majesty from drawing in future from foreigners this article so important for the equipment of his vessels.

It is with this hope that the petitioner has actively made the most pressing demands to obtain from his correspondents in Montreal a considerable number of people proper for this culture, who must of necessity by inducement be attracted hither, although at this moment the political circumstances of Canada appear to oppose it; but in more favorable times hereafter this object may undoubtedly be obtained. Notwithstanding which, the petitioner is obliged to assure himself, in advance, from you, Monsieur, a title which may guarantee to him the proprietorship of a quantity of arable land, proportioned to his views, in order to form an extensive establishment, as soon as the times shall appear favorable to his enterprise, and as soon as his correspondents shall be able, without compromitting their sense of duty, to cause to emigrate to this country the number of people, necessary to give birth to this culture, so much desired by the government.

Considering, Monsieur, this exposition of the petitioner, and the particular recommendations of his excellency the governor general of the province, the petitioner hopes that you will be pleased to grant him the quantity of land which he desires to obtain, as well in order to favor him, the execution of all which may contribute to the future success of his project, as to furnish him the means of attracting hereafter from a foreign country an emigration of cultivators, which may not, perhaps, be obtained until after a considerable lapse of time, and upon promises of rewards, which the petitioner will be obliged to fulfil in their favor.

For which reason he prays you to grant to him, in the name of his Majesty, the tract of land which lies along the edge of the western bank of the Mississippi river, to begin at the place which is opposite the head of an island, situated about one hundred arpens below the Little Prairie, which lies at the distance of about thirty miles below the village of New Madrid, in descending the current and continuing to descend it to such point as that one may be placed on the same western bank, right opposite the outlet commonly known by the name of the river à Carbono, whose embouchure is on the eastern side of the Mississippi; to the end that, from the said place, situated as has been herein before designated, situated right opposite the outlet of said river à Carbono, there may be drawn, running inland for depth due southwest, or in nearly that direction, a line which shall be prolonged parallel with one to be drawn from the point situated opposite the head of the island, lying as aforesaid, about a hundred arpens below said Little Prairie; the prolongation of these two said lines of depth to be equally continued in a direction nearly southwest, and to serve as boundaries for each of those opposite sides, until the extremities of said two lines shall be sufficiently prolonged to reach, in the same direction, the bank of those branches

of the river St. Francis which are most distant from the river Mississippi; which banks of the river St. Francis shall serve as bound and limit to the third side of the tract demanded, and the banks of the Mississippi shall form the fourth, commencing from the head of said island of the Little Prairie, whereof mention has been made before; thence descending the current, on the western side, to the point situated right opposite said river, called the river Carbono. To the end that, as soon as it may be in the power of the petitioner, he may be able to establish and select, in the tract of land so demanded, those portions which shall be best fitted to improve for the culture of hemp; because, inasmuch as a great tract of said lands is now drowned in swamps and unimprovable low land, making it impossible to fix establishments in its whole extent; all to be done that the petitioner may enjoy the land, and dispose of it always as a property belonging to him, his heirs or assigns; and also may distribute them, or part of them, if he think fit, in favor of such person or persons as he may judge proper, to attain, as far as on him depends, the accomplishment of his project; and the petitioner will never cease to return thanks for your favors.

Done at New Madrid, this first day of the month of August, in the year one thousand seven hundred and ninety-six.

J. CLAMORGAN.

A.—*Translation No.* 4.

NEW MADRID, *9th of August*, 1796.

Since, by the exposition contained in this petition, the means of the petitioner are apparent to me, and his new connexion with the house of Todd, which will be able to facilitate to him the accomplishment of the enterprise proposed, the profit whereof, if it succeed, will redound in part to the advantage of this remote country, miserable on account of its small actual population; and I giving particular attention to the recommendations which Señor the Baron de Carondelet, governor general of these provinces, has communicated to me, when he thought fit to appoint me commandant of this post and its dependencies, "to seek by all means the mode of increasing the population, and of encouraging agriculture in all its branches, and particularly the cultivation of hemp," it appearing to me that the propositions which the petitioner makes are conducive to the attainment of this last recommendation: Therefore, I do grant him, for him and his heirs, the tract of land which he prays for, at the place and within the identical limits which he asks, if it interferes with the rights of no other person; and, whenever he shall proceed to establish it, he shall cause it to be surveyed, not obliging him to verify the survey soon, inasmuch as the extent of the land is so great that it would occasion him a ruinous expense if he were to verify it before the arrival of the families which he is to cause [to] come from Canada; but as soon as they arrive, and he puts them in possession, it will be his duty to assure himself of his proprietorship by means of actual survey, in order that he may afterwards have recourse to the gov-

ernor general to obtain his approval and title for this his concession in form.

CARLOS DEHAULT DELASSUS.

(For plat, marked exhibit B 2, see original, page 25.)

TERRITORY OF LOUISIANA,
District of New Madrid.

I do certify, that the above plot represents a tract of land containing four hundred and fifty-eight thousand nine hundred and sixty-three acres, (or five hundred and thirty-six thousand nine hundred and four arpens twenty-nine perches,) lying on the forks of the St. Francis river, miles below the Little Prairie, surveyed by me from the 30th of January last to the 12th of the present month, for and at the request of James Clamorgan, who claims the same under a Spanish title. Beginning at two large sycamores marked C, on the bank of the Mississippi, running up the same, and following the meanders thereof, to a large cotton wood and two sycamores marked C, on the bank, at 195 poles west, and 5,847 poles north, from the beginning, and crossing the river Pemiscoe near the mouth thereof; then from the cotton wood and the sycamore aforesaid, opposite the middle of the island on Petier, running S. 45° W., 3,504 poles, to a sycamore and pacon wood on the bank of Pemiscoe, after crossing the same at 1,056 poles, and at 3,036 poles; then N. 45° W., 1,734 poles, to two elms marked C, after crossing Pemiscoe at 670 and 1,020 poles; then S. 45° W., 6,023 poles, to the middle fork of St. Francis, running E. of south, crossing the same; and from thence, keeping the same course, 3,710 [poles,] to a sycamore and hackberry, on the south bank of the east fork of St. Francis river, running southeast; then S. 10° W., 6,572 poles, down the said fork, crossing the same several times, to a sycamore and willow marked C, on the bank of the river, and from thence to the beginning.

R. A. NASH, *Deputy surveyor.*

Received for record. St. Louis, February 28, 1806.
ANTOINE SOULARD,
Surveyor General, Ty., Louisiana.

RECORDER'S OFFICE, ST. LOUIS, MISSOURI,
September 22, 1836.

I certify the above plat and certificate of survey to be truly copied from book C, pages 183 and 184, of record in this office.

F. R. CONWAY,
Recorder of land titles in the State of Missouri.

Exhibit D.

On the 27th day of December, 1814, received for, and the same day recorded the following instrument of writing:

Sachent tous ceux qui ces présentes verront que moi, Jacques Clamorgan, demeurant en la ville et district de St. Louis et territoire de Louisiane, pour prix et consideration de la somme de quinze cents piastres, qui m'a été bien et duement payée par Mr. Pierre Chouteau, du dit lieu, ainsi que je le reconnais par ces presentes, et de laquelle somme je le tiens quitte et decharge, lui, ses heritiers et ayans causes, j'ai ce jourd'hui vendu, cédé, quitté, delaissé, abandonne, et transporte, comme par ces presentes je vends, cede, quitte, delaisse, abandonne et transporte, au dit Sieur Pierre Chouteau, ses hoirs ou ayant cause, un certain morceau de terre contenant cinq cent trente six mille neuf cent quatre arpens vingt-neuf perches de superficie, situé sur le fleuve Mississippi, district de la Nouvelle Madrid, front au dit Mississippi, au bas de l'endroit appellé la Petite Prairie et par derriere à la fourche ouest de la riviere St. François, et des deux côtés au domaine, laquelle terre m'appartient comme m'ayant été concedée par Don Carlos Dehault Delassus, lieutenant gouverneur de la Nouvelle Madrid et dépendances, le neuf Août, mil sept cent quatre vingt seize, et arpentée du 30 Janvier au 12 Fevrier, 1806, ainsi qu'il est completement constaté par l'enregistrement des dites pièces en l'office du recorder pour les reclamations de terres en ce territoire, livre C, page 181 et suivantes, promettant garantir et preserver la dite terre de tous troubles, dus, dettes, donaires, hypothèques, et autres empêchements généralement tout de ma part que de celle de mes hoirs, executeurs, ou administrateurs, pour par le dit Sieur Pierre Choteau, ses hoirs ou ayant cause, en jouir, faire, et disposer à son gré et volonté comme de chose à lui appartenante et par lui legitimément acquise, à commencer la jouissance des ce jourd'hui.

En foi de quoi j'ai signé et scellée ces présentes, en la ville, district, et territoire ci dessus, le deuxieme Mai, de l'année de nôtre Seigneur mil huit cent neuf.

J. CLAMORGAN. [SEAL.]

Signé et scellé en presence de—
ALEXANDER PAPIN,
M. P. LEDUC.

LOUISIANA TERRITORY,
District of St. Louis, sct.

Before me the subscriber, one of the judges of the court of common pleas for the district of St. Louis, personally came the above named James Clamorgan, who acknowledged the within instrument of writing to be his free and voluntary act and deed, hand and seal, for the purposes therein mentioned, and as such desired the same to be recorded.

Given under my hand and seal, the day of the date of said act and deed. AUG. CHOUTEAU. [SEAL].

I, Alphonse Delaroderie, clerk of the circuit court, and ex officio recorder for the county of New Madrid, in the State of Missouri, do hereby certify the foregoing to be a true and correct copy from the records of my office of the deed of Jacques Clamorgan to Pierre Chouteau, and all that pertains to said deed of record, in book No. five, pages 273 and 274, of New Madrid county records.

In witness whereof I have hereunto subscribed my name, and [L. S.] affixed the seal of said court, at office, in the town of New Madrid, this sixteenth day of December, A. D. 1845.

ALPHONSE DELARODERIE, *Clerk.*

STATE OF MISSOURI,
Tenth judicial circuit.

I, John D. Cook, judge of the circuit courts of the 10th judicial circuit of the State of Missouri, do hereby certify, that Alphonse Delaroderie, whose name is herein above subscribed, is now, and was at the time of making the foregoing certificate, clerk of the circuit court and ex officio recorder for the county of New Madrid, in the 10th judicial circuit of the State aforesaid, and that full faith and credit are and ought to be given to his official acts in that capacity.

Given under my hand, at chambers, in the county of Cape Girardeau, this 27th day of December, 1845.

JOHN D. COOK.

STATE OF MISSOURI,
County of New Madrid.

I, Alphonse Delaroderie, clerk of the circuit court of the county of New Madrid, in the State of Missouri aforesaid, do hereby certify, that John D. Cook, esq., whose signature is affixed to the foregoing attestation, is now, and was at the time of signing the same, judge of the circuit courts of the tenth judicial circuits of the State of Missouri; that the circuit court of the county of New Madrid is included in said 10th judicial circuit, and that the said circuit court is a court of record.

In witness whereof I have hereunto subscribed my name, and affixed the seal of said circuit court, at office, in the town of New [L. S.] Madrid, this third day of January, in the year of our Lord eighteen hundred and forty-six.

ALPHONSE DELARODERIE, *Clerk.*

Exhibit E.

On the 30th day of December, 1815, received for and recorded the following instrument in writing:

Sachent tous ceux qui ces presentes verront, que moi, Pierre Chouteau, de la ville et comté de St. Louis, territoire Missouri, pour prix et en consideration de la somme de sept cent cinquante piastres, qui m'a été bien et dûement payée par Charles Dehault Delassus; ainsi que je

Exhibit D.

On the 27th day of December, 1814, received for, and the same day recorded the following instrument of writing:

Sachent tous ceux qui ces présentes verront que moi, Jacques Clamorgan, demeurant en la ville et district de St. Louis et territoire de Louisiane, pour prix et consideration de la somme de quinze cents piastres, qui m'a été bien et duement payée par Mr. Pierre Chouteau, du dit lieu, ainsi que je le reconnais par ces presentes, et de laquelle somme je le tiens quitte et decharge, lui, ses heritiers et ayans causes, j'ai ce jourd'hui vendu, cédé, quitté, delaissé, abandonne, et transporte, comme par ces presentes je vends, cede, quitte, delaisse, abandonne et transporte, au dit Sieur Pierre Chouteau, ses hoirs ou ayant cause, un certain morceau de terre contenant cinq cent trente six mille neuf cent quatre arpens vingt-neuf perches de superficie, situé sur le fleuve Mississippi, district de la Nouvelle Madrid, front au dit Mississippi, au bas de l'endroit appellé la Petite Prairie et par derriere à la fourche ouest de la riviere St. François, et des deux côtés au domaine, laquelle terre m'appartient comme m'ayant été concedée par Don Carlos Dehault Delassus, lieutenant gouverneur de la Nouvelle Madrid et dépendances, le neuf Août, mil sept cent quatre vingt seize, et arpentée du 30 Janvier au 12 Fevrier, 1806, ainsi qu'il est completement constaté par l'enregistrement des dites pièces en l'office du recorder pour les reclamations de terres en ce territoire, livre C, page 181 et suivantes, promettant garantir et preserver la dite terre de tous troubles, dus, dettes, donaires, hypothèques, et autres empêchements généralement tout de ma part que de celle de mes hoirs, executeurs, ou administrateurs, pour par le dit Sieur Pierre Choteau, ses hoirs ou ayant cause, en jouir, faire, et disposer à son gré et volonté comme de chose à lui appartenante et par lui legitimément acquise, à commencer la jouissance des ce jourd'hui.

En foi de quoi j'ai signé et scellée ces présentes, en la ville, district, et territoire ci dessus, le deuxieme Mai, de l'année de nôtre Seigneur mil huit cent neuf.

J. CLAMORGAN. [SEAL.]

Signé et scellé en presence de—
ALEXANDER PAPIN,
M. P. LEDUC.

LOUISIANA TERRITORY,
District of St. Louis, sct.

Before me the subscriber, one of the judges of the court of common pleas for the district of St. Louis, personally came the above named James Clamorgan, who acknowledged the within instrument of writing to be his free and voluntary act and deed, hand and seal, for the purposes therein mentioned, and as such desired the same to be recorded.

Given under my hand and seal, the day of the date of said act and deed. AUG. CHOUTEAU. [SEAL].

I, Alphonse Delaroderie, clerk of the circuit court, and ex officio recorder for the county of New Madrid, in the State of Missouri, do hereby certify the foregoing to be a true and correct copy from the records of my office of the deed of Jacques Clamorgan to Pierre Chouteau, and all that pertains to said deed of record, in book No. five, pages 273 and 274, of New Madrid county records.

In witness whereof I have hereunto subscribed my name, and
[L. S.] affixed the seal of said court, at office, in the town of New Madrid, this sixteenth day of December, A. D. 1845.

ALPHONSE DELARODERIE, *Clerk.*

STATE OF MISSOURI,
Tenth judicial circuit.

I, John D. Cook, judge of the circuit courts of the 10th judicial circuit of the State of Missouri, do hereby certify, that Alphonse Delaroderie, whose name is herein above subscribed, is now, and was at the time of making the foregoing certificate, clerk of the circuit court and ex officio recorder for the county of New Madrid, in the 10th judicial circuit of the State aforesaid, and that full faith and credit are and ought to be given to his official acts in that capacity.

Given under my hand, at chambers, in the county of Cape Girardeau, this 27th day of December, 1845.

JOHN D. COOK.

STATE OF MISSOURI,
County of New Madrid.

I, Alphonse Delaroderie, clerk of the circuit court of the county of New Madrid, in the State of Missouri aforesaid, do hereby certify, that John D. Cook, esq., whose signature is affixed to the foregoing attestation, is now, and was at the time of signing the same, judge of the circuit courts of the tenth judicial circuits of the State of Missouri; that the circuit court of the county of New Madrid is included in said 10th judicial circuit, and that the said circuit court is a court of record.

In witness whereof I have hereunto subscribed my name, and affixed the seal of said circuit court, at office, in the town of New
[L. S.] Madrid, this third day of January, in the year of our Lord eighteen hundred and forty-six.

ALPHONSE DELARODERIE, *Clerk.*

Exhibit E.

On the 30th day of December, 1815, received for and recorded the following instrument in writing:

Sachent tous ceux qui ces presentes verront, que moi, Pierre Chouteau, de la ville et comté de St. Louis, territoire Missouri, pour prix et en consideration de la somme de sept cent cinquante piastres, qui m'a été bien et dûement payée par Charles Dehault Delassus; ainsi que je

le reconnais par ces presentes, et de la quelle somme je le tiens quitte, et décharge lui, ses hoirs ou ayant cause, j'ai ce jourd'hui vendu, cédé, quitté, delaissé, abandonne et transporte, au dit Charles Dehault Delassus, ici present et acceptant pour lui, ses hoirs ou ayant cause, par Marie Philippe Leduc, son chargé de pouvoirs, tous les droits, titres, pretensions, réclamations, propriétés, noms, raisons, et actions que j'ai et puis avoir, sur un morceau de terre, contenant deux cent soixante huit mille quatre cent quatre-vingt quatorze arpens soixant quatre perches et demie, sis et situé sur le fleuve Mississippi, comté de la Nouvelle Madrid, territoire ci-dessus, au bas de l'endroit appellé la Petite Prairie, faisant front au dit fleuve Mississippi, et par derriere tenant à la fourche ouest de la riviere St. François, du côté du sud aux terres vacantes, et du côté du nord à une terre à moi appartenante, le morceau de terre ci-dessus, étant la juste moitié d'une terre de plus grande quantité par moi achetée de Jacques Clamorgan, le deux Mai, mil huit cent neuf, ainsi qu'il est constaté par acte de vente du dit Jacques Clamorgan à moi susdit Pierre Chouteau, enregistré en l'office du recorder du dit comté de la Nouvelle Madrid, livre numero cinq, page deux cent soixante-treize et deux cent soixante-quatorze, la quelle moitié est à prendre de sus la partie sud de la dite terre par moi acquise du dit Jacques Clamorgan, comme est ci-dessus dit, pour par le dit Charles Dehault Delassus, ses hoirs ou ayant cause, jouir, faire, et disposer à son gré et volonté, comme de chose à lui appartenante; avec tous les droits sur le dit morceau de terre à moi transporté par le dit Jacques Clamorgan par la vente ci-dessus mentionée, sans aucune garantie de ma part; et moi, Marie Philippe Leduc, en qualité de chargé de pouvoirs du dit sieur Charles Dehault Delassus, accepte le presente vente pour le dit Charles Dehault Delassus, à ses risques, perils, et hazard, connaissant parfaitement les titres de la dite terre, et sans que le dit Charles Dehault Delassus puisse avoir aucune recours sur le dit Pierre Chouteau, ses hoirs, en remboursant de la somme cy-haut mentionnée, ni pour aucune partie d'icelle, quand même le titre ou partie du titre manquerait.

En foi de quoi nous sous-dits Pierre Chouteau et Marie Philippe Leduc, en nos qualités respectives avons signés et scellés ces présentes, à St. Louis, ce dix sept Mai de l'an de nôtre Seigneur mil huit cent quinze.

PIERRE CHOUTEAU, [L. S.]
M. P. LEDUC. [L. S.]

Signé, signé, et delivré, en présence de
B. BERTHOLET,
PRRE. CHOUTEAU, Jun.

MISSOURI TERRITORY, *ss.*

Before me, the undersigned, one of the judges of the supreme court in and over the Territory of Missouri aforesaid, personally came and appeared the within named Peter Chouteau and Mary Philip Leduc, who acknowledged the within instrument of writing to be their, and

each of their; act and deed, hands and seals; for the purposes therein contained.

Exhibit E.

Given under my hand at my chamber in the town of Saint Louis, territory aforesaid, this second day of December, in the year of our Lord one thousand eight hundred and fifteen, and of the American [independence] the fortieth.

ALEX'R STUART.

I, Alphonse Delaroderie, clerk of the circuit court, and ex officio recorder for the county of New Madrid, in the State of Missouri, do hereby certify *do hereby certify* the foregoing to be a true and correct copy from the records of my office of the deed of Pierre Chouteau to Chs. Dehault Delassus, and all that pertains to said deed of record in book No. six, pages 242 and 243, of New Madrid county records.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of said court, at office in the town of New Madrid, December the 16th, 1845.

[SEAL.]

ALP. DELARODERIE, *Clerk.*

STATE OF MISSOURI,
Tenth judicial circuit.

I, John D. Cook, judge of the circuit courts of the 10th judicial circuit, of the State of Missouri, do hereby certify, that Alphonse Delaroderie, whose name is herein above subscribed, is now, and was at the time of making the foregoing certificate, clerk of the circuit court, and ex officio recorder for the county of New Madrid, in the 10th judicial circuit of the State aforesaid, and that full faith and credit are and ought to be given to his official acts in that capacity.

Given under my hand at chambers, in the county of Cape Girardeau, this 27th day of December, A. D. 1845.

JOHN D. COOK.

STATE OF MISSOURI,
County of New Madrid.

I, Alphonse Delaroderie, clerk of the circuit court for the county of New Madrid, in the State of Missouri aforesaid, do hereby certify, that John D. Cook, esq., whose signature is affixed to the foregoing attestation, is now, and was at the time of signing the same, judge of the circuit courts of the tenth judicial circuit of the State of Missouri; that the circuit court of the county of New Madrid is included in said tenth judicial circuit, and that the said circuit court is a court of record.

In witness whereof I have hereunto subscribed my name, and affixed the seal of said circuit court, at office, in the town of New Madrid, this third day of January, in the year of our Lord eighteen hundred and forty-six.

ALP. DELARODERIE, *Clerk.*

Exhibit F.

This deed, made the fourteenth of October, in the year of our Lord one thousand eight hundred and thirty-six, between Charles Dehault Delassus, late of the city of New Orleans, in the State of Louisiana, now of the county of St. Louis, and State of Missouri, of the first part, and Mary Philip Leduc, of the city of St. Louis, and county aforesaid, of the second part, witnesseth:

That the said Charles Dehault Delassus, for and in consideration of the sum of twenty thousand dollars, to him in hand paid by the said Mary P. Leduc, at and before the ensealing and delivery hereof, the receipt whereof is hereby acknowledged, hath granted, bargained, and sold, and by these presents doth grant, bargain, and sell, unto the said Mary Philip Leduc, his heirs, and assigns, for ever, all that certain tract, piece, or parcel of land, lying and being situate in the county of New Madrid, and State of Missouri, on the river Mississippi, and containing two hundred and sixty-eight thousand four hundred and ninety-four arpens, sixty-four perches and a half, below the place called the Little Prairie, fronting the river Mississippi, and adjoining on the rear of the western fork of St. Francis river, on the south side by vacant lands, and on the north side by lands of Pierre Chouteau, it being the same tract of land which the said Charles Dehault Delassus purchased from Pierre Chouteau, by deed bearing date the seventeenth day of March, in the year of our Lord one thousand eight hundred and fifteen, as will more fully and at large appear, reference being had to the record of said deed in the recorder's office of the said county of New Madrid, book No. 6, pages 242, [two hundred and forty-two and following.]

To have and to hold the said granted, bargained, and sold premises, together with all and singular the privileges, hereditaments, and appurtenances to the same belonging, or in anywise appertaining, unto him, the said Mary Philip Leduc, his heirs and assigns, and to his and there proper use, benefit, and behoof, forever.

In witness whereof the parties to these presents have hereunto set their hands and seal, on the day, month, and year first above written.

CHAS. D. DELASSUS. [SEAL.]

STATE OF MISSOURI,
County of St. Louis, ss.

Be it remembered, that on this fourteenth day of October, in the year of our Lord eighteen hundred and thirty-six, before me, the clerk of the county court within and for the county aforesaid, personally came Charles D. Delassus, who is personally known to me to be the real person whose name is subscribed to the foregoing instrument of writing, and acknowledged the same to be his act and deed for the purposes therein mentioned.

In testimony whereof I have hereunto set my hand, and affixed the seal of said court, at the city of St. Louis, the day and year aforesaid.

[SEAL.]

HENRY CHOUTEAU, *Clerk.*

STATE OF MISSOURI,
County of St. Louis.

I, John Ruland, clerk of the St. Louis circuit court, within and for the county aforesaid, certify, the foregoing *the foregoing* to be a true and correct copy of an original deed marked "exhibit I," and filed with the papers in the case of Richard W. Ulrice, administrator of C. D. Delassus, and Louis B. McCarty vs. Theodore Papin and Joseph L. Papin, administrators, as fully as the same remains on file in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at office, in the city of Saint Louis, this fifth day of November, A. D. 1845.

[L. S.]

JNO. RULAND, *Clerk.*

Exhibit G.

This deed, made this first day of June, in the year of our Lord one thousand eight hundred and thirty-seven, between Pierre Chouteau and Marie P. Leduc, of the county of St. Louis and State of Missouri, and John Glenn and Charles M. Thruston, of the State of Maryland, trustees for the purposes mentioned in a declaration of trust executed on the 21st day of February, 1837, witnesseth: That the said Pierre Chauteau and Marie P. Leduc, for and in consideration of the sum of fifty-three thousand six hundred and ninety-nine dollars, ($53,699,) in hand paid at and before the sealing and delivery of these presents, have granted, bargained, and conveyed, and by these presents do grant, bargain, and convey, unto the said John Glenn and Charles M. Thruston, their successors and assigns forever, all that certain tract, piece, or parcel of land, lying and being situate in county of New Madrid, State of Missouri, and extending into the State of Arkansas, and bounded as follows, to wit: beginning on the western side of the river Mississippi, at the place which is opposite the head of an island situated at about one hundred arpens below the Little Prairie, which is at the distance of about thirty miles below the village of New Madrid in descending the current, and continuing to descend it until one is placed (on the same western side) right opposite the outlet, commonly known under the name of river à Carbono, the mouth of which is on the eastern side of the Mississippi, so that from the said place, situated as aforesaid, opposite the mouth of the above mentioned river Carbono, a line may be drawn running towards the southwest or thereabout; said line shall be parallel to the one which is to be drawn from the place situated opposite the head of the island, lying as here above stated at about one hundred arpens below the said Little Prairie; these said two lines shall

run in the depth in a southwestern direction, or thereabout, and shall be the boundaries of each of those two opposite sides, until the extremities of those two said lines be sufficiently prolonged in the said direction, so as to reach the banks of the branches of the river St. Francis, the most distant from the Mississippi; which banks of said branches of river St. Francis, shall be the boundary and limit to the third side of the land demanded, and the banks of the Mississippi shall be the fourth; to begin from the head of the aforesaid island of the Little Prairie, and descending the current on the western side, until the place situated opposite the said river, called river à Carbono, and which tract contains about five hundred and thirty-six thousand nine hundred and eighty-nine arpens, French measure, be the same more or less, as appears by a survey thereof made by the proper officers in the month of January, 1806, and certified as received for record by the surveyor general of the district of Louisiana, on the 28th day of February, 1806, and was granted by the Spanish government in Upper Louisiana, represented by Don Carlos Dehault Delassus, the then commandant of New Madrid and its dependencies, to Jaques Clamorgan and his representatives, and said concession, survey, and tract of land have been duly conveyed for valuable consideration to the said Pierre Chouteau and Marie P. Leduc.

To have and to hold the said granted, bargained, and sold premises, together with *with* all and singular the privileges thereto appertaining, unto them, the said John Glenn and Charles M. Thruston, their successors and assigns, for the purposes in the said declaration of trust mentioned, free from the claim or claims of the said Pierre Chouteau and Marie P. Leduc, or any person or persons claiming by, through, or under them; the words "conveyed" and "convey" written on erasures before signing.

In witness whereof the parties to these presents have hereunto set their hands and seals, on the day, month, and year first above written.

PRE. CHOUTEAU, [SEAL.]
M. P. LEDUC. [SEAL.]

Witness—
GEORGE F. STROTHER.

STATE OF MISSOURI,
County of St. Louis, ss.

Be it remembered, that on this first day of June, in the year of our Lord one thousand eight hundred and thirty-seven, before me, Henry Chouteau, clerk of the county court for the county aforesaid, which said court is a court of record, personally appeared Pierre Chouteau and Mary P. Leduc, both of whom are personally known to me to be the persons whose names are subscribed to the foregoing instrument of writing, as parties thereto, and acknowledged the same to be their act and deed, severally, for the purposes therein mentioned.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at office, in the city of St. Louis, county
[L. S.] and State aforesaid, the day and year above written.

HENRY CHOUTEAU, *Clerk.*

Received for record, recorded and examined the foregoing on the 15th day of December, A. D. 1837.

ALPH. DELARODERIE, *Clerk.*

I, Alphonse Delaroderie, clerk of the circuit court, and ex officio recorder for the county of New Madrid, in the State of Missouri, do hereby certify the foregoing to be a true and correct copy from the records of my office of the deed of Pierre Chouteau and Marie P. Leduc, to John Glenn and Charles M. Thruston, and all that pertains to said deed of record, in book No. fifteen, pages 204 and 205 of New Madrid county records.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of said court, at office, in the town of New
[L. S.] Madrid, this sixteenth day of December, A. D. 1845.

ALPH. DELARODERIE, *Clerk.*

STATE OF MISSOURI,
Tenth judicial circuit.

I, John D. Cook, judge of the circuit courts of the 10th judicial circuit of the State of Missouri, do hereby certify, that Alphonse Delaroderie, whose name is herein above described, is now, and was at the time of making the foregoing certificate, clerk of the circuit court, and ex officio recorder for the county of New Madrid, in the 10th judicial circuit of the State aforesaid, and that full faith and credit are and ought to be given to his official acts in that capacity.

Given under my hand at Chambers, in the county of Cape Girardeau, this 27th day of December, A. D. 1845.

JOHN D. COOK.

STATE OF MISSOURI,
County of New Madrid.

I, Alphonse Delaradorie, clerk of the circuit court for the county of New Madrid, in the State of Missouri aforesaid, do hereby certify, that John D. Cook, esq., whose name is affixed to the within attestation, is now, and was at the time of signing the same, judge of the circuit courts of the tenth judicial circuit of the State of Missouri. That the circuit court of the county of New Madrid is included in said 10th judicial circuit, and that the said circuit court is a court of record.

In witness whereof I have hereunto subscribed my name, and affixed the seal of said circuit court, at office, in the town of New
[L. S.] Madrid, this 3d day of January, in the year of our Lord one thousand eight hundred and forty-six.

ALPH. DELARODERIE, *Clerk.*

The foregoing papers, from exhibit A to exhibit G, were filed 24th January, 1846, and writ issued the same day on the petition.

WM. FIELD, *Clerk*.

Proceedings, &c.,

To honorable district court of the United States, for the district of Missouri, in chancery.

Respectfully show your orators, John Glen and Charles M. Thruston, citizens of the State of Maryland, that on the first day of August, in the year one thousand seven hundred and ninety-six, James Clamorgan, a subject of the King of Spain, residing in the town of St. Louis, province of Upper Louisana, presented his petition to the lieutenant governor and commandant of New Madrid and dependencies praying that a tract of land should be granted him and his heirs, adapted to the cultivation of hemp; and for the purpose of enabling said Clamorgan to carry into effect and operation a project encouraged and approved by the governor general of Louisana, of said Clamorgan, of establishing a rope manufactory, for the purpose of making cordage for the Spanish navy, and for the supply of the Havana with that necessary article; that the tract of land so prayed for is described in said petition as follows, to wit, a tract of land lying on the western side of the river Mississippi, to begin from the place opposite the head of an island situated at about one hundred arpens below the Little Prairie, which is distant about thirty miles from the village of New Madrid; in descending the current and continuing to follow said currrent until one is placed on the same western side, right opposite to the mouth of the river commonly called river à Carbono, which is on the eastern side of the Mississippi, so that from the said place, situated opposite the mouth of the aforesaid river Carbono, a line be drawn towards the interior, running southwest or thereabout, said line shall be prolonged parallel to the one which will have to be drawn from the place situated opposite the head of the island lying as hereabout stated, at about one hundred arpens below the said Little Prairie; these two said lines shall run in the depth, in a southeastern direction or thereabout, and shall be the boundaries of each of those two opposite sides, until the extremities of the said two lines be sufficiently prolonged in the said direction, so as to reach the banks of the branches of the river St. Francis, the most distant from the Mississippi, which banks of said branches of the river St. Francis shall be the boundary and limit to the third side of the land demanded, and the banks of the Mississippi shall be the fourth side of the same, to begin from the head of the aforesaid island of the Little Prairie, and descending the current on the western side to the place situated opposite the said river, called river à Carbono, in order that, as soon as it is in the power of the petitioner, he may select and improve the said tract demanded the land which is most suitable for the cultivation of hemp. A great part of the said tract being overflowed by ponds and impracticable low swamps, which will prevent the improving of the

whole in all its extent. And the petitioner to enjoy and dispose of the same forever, as a thing belonging to him and his heirs and assigns, and even to distribute the said lands, or part of them, if he thinks proper, in favor of such person or persons whom he may judge fit, in order to attain as much *as in* as in his power lies the accomplishment of his project; and the petitioner shall never cease to render thanks.

Your orators further show, that on the ninth day of August, 1796 aforesaid, the same Charles D. Delassus, as lieutenant governor and commandant of New Madrid and its dependencies, made on the said petition of James Clamorgan the following order or decree, to wit, having examined the statements contained in the petition, being satisfied as to the means of the petitioner, and of his late partnership with the house of Todd, which may facilitate to him the accomplishment of the undertaking he proposes, the profits of which, if it succeeds, will devolve in part to the benefit of this remote country, so miserable on account of the actual want of population, due attention being paid to the particular recommendation made to me by the Baron De Carondelet, governor general of these provinces, considering that he, said Baron De Carondelet, thought fit to recommend to the commandant of this post and dependencies to seek by all possible means the mode of increasing the population, and of encouraging agriculture in all its branches, and particularly that of hemp. It appearing to me that what the petitioner proposes will contribute to the attainment of this last recommendation, I do grant to him and his heirs the land which he solicits, in the place where, and on the same terms, as he asks the same, provided it is not prejudicial to any person; and when he establishes the same land he shall have it surveyed, not compelling him to have it done immediately, as its extent is so considerable that it would occasion a ruinous expense to him if he was to execute said survey before the arrival of the families which he must send for to Canada; but as soon as they arrive he settles them on said land, he shall have to secure his property by having the same surveyed, in order afterwards to have recourse to the governor general to obtain the approbation and the title in form for this his concession.

Your orators further show, that said James Clamorgan was proceeding to obtain from Canada the people necessary to the efficient cultivation of the hemp on the said tract of land, and to the manufacture of the cordage and other articles for the use of the Spanish marine, when a war broke out betweeen England and Spain, which cut off and rendered impracticable all intercourse between the Spanish possessions in Louisiana and the dominions of the King of Great Britian in either of the Canadas, and consequently deprived said grantee of the means of effecting the object which he had in view, and for which the grant was especially made to him by the competent Spanish authorities.

Your orators show that said James Clamorgan was thus prevented by the act of the Spanish government from utilizing his grant as aforesaid, until the peace was proclaimed between England, France, and Spain, which event did not take place till the year 1801, and previous to

which date, by the treaty of Ildefonso, the province of Louisiana had been retroceded by Spain to France.

Your orators show, that in the short interval between the treaty of peace of Amiens, in 1801, between Great Britain and France, and the renewal of war between said powers in 1803, it was not possible for said James Clamorgan to bring said tract into cultivation, or to establish upon it the culture and manufacture of hemp.

Your orators show, that the relations of France and Great Britain, during the short interval of nominal peace, were so ambiguous and unsettled as to render all intercourse of a commercial or agricultural character totally impracticable between the province of Louisiana and Lower Canada, from which region said James Clamorgan was to have obtained the population, and means of cultivating and utilizing the tract of land so granted to him.

Your orators further show, that on the 30th April, 1803, the province of Louisiana was ceded by France to the United States, and on the 26th March, 1804, an act was passed by the Congress of the United States prohibiting under heavy pecuniary penalties, and expulsion from the land, any person, citizen, or other, to enter on any land, the title to which was in the United States, or to make settlements thereon, which said prohibition was renewed under heavy penalty by the act of 3d March, 1807. See the first, which provided that, until the claim to the land should be confirmed by the authority of the United States, the claimant himself, no matter what his claim were based upon, should not enter upon his land, settle or cultivate it.

Your orators show that said James Clamorgan, in pursuance of the act of Congress of the 2d March, 1805, filed his claim under said grant before the board of commissioners of the United States, and that in obedience to the 6th section of said act, which required the claimant to file a notice in writing of the extent of his claim, together with a plat of survey of the tract or tracts granted, he, said James Clamorgan, filed a plat of survey, which at a great expense he has caused to be made of his said granted tract, all which will more fully appear by said original grant and plat of survey herewith exhibited, and marked A and B, and prayed to be taken as part of this petition.

Your petitioner further shows, that by deed bearing date the second day of May, one thousand eight hundred and nine, the said grantee, James Clamorgan, conveyed said grant, and the whole of the tract described in it, and contained in the survey thereof aforesaid, to Pierre Chouteau and his heirs and assigns, as will appear by said deed duly acknowledged and recorded, now ready to be produced to this honorable court; that afterwards, to wit, on the seventeenth March, eighteen hundred and fifteen, the said Pierre Choteau, by deed of that date conveyed to Charles Dehault Delassus and his heirs and assigns, a moiety of said tract and grant, as will appear by said deed duly acknowledged and recorded, now ready to be produced to this honorable court.

That afterwards, said Delassus, by deed bearing date the fourteenth October, eighteen hundred [and] thirty-six, conveyed his right, title, estate, and interest in said tract of land and grant, to Marie P. Laduc

of St. Louis, as will appear by said deed, duly executed and acknowledgd, now ready to be produced.

That afterwards, to wit, on the first day of June, eighteen hundred and thirty seven, in consideration of the sum of fifty-three thousand six hundred and ninety-nine dollars, the said Pierre Chouteau and Marie P. Laduc, by deed of last mentioned date, conveyed to your petitioner the whole of said grant, and the land described in it in the survey, hereinbefore stated, to hold forever one certain tract declared in a certain instrument therein recited, dated 21st February, 1837, as will appear by said deed of conveyance from said Chouteau and Laduc to your petitioners, said John Glenn and Charles Thurston, now ready to be produced to this honorable court.

Your petitioners further show, that at various times since the grant aforesaid and survey was made, the said land has been entered upon by different individuals, who without any title whatever, or any authority from the United States, have settled down upon, and cultivated, small portions of [the] same, and many of those trespassers still continue thereon to the injury of your petitioners, and with full notice of their just claim and title thereto.

Your petitioners further show, that only a small portion of said tract has been surveyed and sectionized by the United States, and no part of it has as yet been offered for sale, at public auction, as land of the United States.

Your orators further respectfully show, the said grant, so made as aforesaid to said James Clamorgan, did at its date include land, the whole of which was in the province of Lousiana, but which land is now contained partly within the State of Missouri and partly within the State of Arkansas. That your petitioners are unable to state exactly the quantity situated south of the southern boundary of Missouri, and in the State of Arkansas, but believe that much the larger portion of said grant and survey is within the limits of the State of Missouri.

Your petitioners show, that said grant to said James Clamorgan was made legally and by the proper authorities at the date thereof, and before the tenth day of March, one thousand eight hundred and four, to said Clamorgan, a resident subject of the King of Spain in the said province of Louisiana, and was and is protected and secured by the treaty between the United States of America and the French Republic, of the 30th day of April, one thousand eight hundred and three, and might have been perfected into a complete title under and in conformity to the laws, usages, and customs of the government under which the same originated, had not the sovereignty of the countries been transferred to the United States, notwithstanding the unfavorable reports which have been made on said claim by certain commissioners of the United States to which said claim has been submitted, to wit, the commissioners under the act of Congress of the 9th July, 1832, and 2d March, 1833, who have in their report placed said claim in the second class, and decided that it ought not to be confirmed, not because of its want of original validity, but because of the conditions not being com-

plied with, as will be seen by reference to the report of said commissioners, printed by order of Congress, vol. 2, page 896, claim numbered class second, No. 149.

Your orators submit, that the reasons assigned by said commissioners is manifestly not justified by said grant in its terms, or by the facts hereinbefore stated, and circumstances of said grantee's position.

Your petitioners submit, that no condition is annexed to said grant, but that said grant was absolute in its terms, and gave to the grantee the the whole of the land described in it, in order to obtain, as much as in his power lay, the accomplishment of [the] project, to wit, the cultivation and manufacture of hemp. Your petitioners further show, that even if a condition of cultivation and manufacture by persons brought from Canada could be found in the grant, the performance of such condition was rendered impossible by the act of the Spanish government in declaring war with Great Britain, and afterwards by the acts of Congress of the United States prohibiting, under heavy penalty, any entries on the land by the grantee or claimant, before his claim was examined and confirmed by authority of the United States. Wherefore, your petitioners pray, that the validity of the claim may be enquired into and decided by this honorable court, and that your petitioners' said claim and title to the land included in said grant, be confirmed and completed by the decree of this court, in conformity with the principles of justice, and to said treaty of cession, and to the laws and ordinances of the Government under which the said grant originated; in order that said decree being had, a survey may be made of the said land by the surveyor of the United States, and a patent in due form issued thereon to your petitioners by the President of the United States, according to the provisions of the act of Congress of the 26th May, 1824. And your orators pray, that a copy of this their petition, with a citation to appear and show cause, if any he can, against its prayer, be served on the district attorney of the United States for the district of Missouri; and that your petitioners have such other relief as they shall appear to this court to be entitled to in the premises. And your petitioners as in duty bound will pray, &c.

JOHN GLENN, and
CHARLES M. THRUSTON,
By their solicitor L. E. LAWLESS.

MISSOURI DISTRICT, *sct.*

The President of the United States, to the marshal of the Missouri district, greeting:

You are hereby commanded to notify and cite William M. McPherson, attorney of the United States for the district of Missouri, that he be and appear before the district court of the United States for the district of Missouri, at special session thereof, to be held at the city of St. Louis, in and for the State of Missouri, on the fourth Monday of April next, then and there to answer the petition of John Glenn and

Charles M. Thruston, who pray the confirmation of a tract of land in said petition described, and make defence, if any he has, or knows of any thing to say, why the same should not be confirmed according to the prayer of said petition.

Hereof fail not and have you then there this writ.

Witness the honorable Robert W. Wells, judge of the United States for the district of Missouri, the 18th day of March in the year 1845.

[SEAL.]

Issued at [my] office in the city of St. Louis, under the seal of said court, the day and year last aforesaid.

[SEAL.] JO. GAMBLE, *Clerk*.

MISSOURI DISTRICT, *sct*.

I hereby certify to the honorable circuit court of the United States for the above district, that I executed the within by delivering a copy of the petition to William McPherson, the United States district attorney, and read the within writ in his presence and hearing in the city of St. Louis, March the 18th, 1845.

ROBERT E. EWING,
U. S. Marshal for the Missouri district.
By RICHARD J. CARLE,
Deputy.

MISSOURI DISTRICT, *sct*.

I, Benjamin F. Hickman, clerk of the district court of the United States, to be holden in the city of St. Louis, in the district of Missouri, to enable claimants to lands within the limits of the State of Missouri to institute proceedings to try the validity of their claims under and by virtue of the provisions of an act of Congress, approved 17th June, 1844, entitled an act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the State of Mississippi and Alabama south of the 31st degree of north latitude, and between the Mississippi and Perdido rivers, do hereby certify, that the foregoing seven pages contain a perfect and complete copy of the petition below in said court, by John Glenn and Charles M. Thruston, for confirmation of claim as set forth in said petition.

Given under my hand and private seal, there being no seal of office, this 11th day of November, 1848.

[SEAL.] BENJAMIN F. HICKMAN, *Clerk*.

Five dollars paid by P. C. Morehead.

Filed April 6th, 1849.

WM. FIELD, *Clerk*,
By JOHN P. PRIGG, *D. C.*

United States of America, to the marshal of Arkansas district, greeting.

You are hereby commanded to summon Samuel H. Hempstead, attorney of the United States, for the district of Arkansas, to appear

before the judges of our district court of the United States, in and for the district of Arkansas, at the court-house, in the city of Little Rock, on the first day of our March term, 1846, then and there to answer John Glenn and Charles M. Thruston, to a petition in chancery, filed for the confirmation of five hundred and thirty-six thousand nine hundred and four arpents, and twenty-nine perches of land; granted to Jas. Clamorgan, as mentioned and set forth in the said petition, and have you then there this writ.

In testimony whereof, Benjamin Johnson, esq., judge of our said court, hath caused the seal thereof to be hereunto affixed, this 24th day of January, A. D. 1846, and in the 70th year of our independence.

[L. S.]

Attest: WM. FIELD, *Clerk*.

Come to hand 5th February, 1846.

E. RECTOR, *U. S. Marshal*.
By S. M. RUTHERFORD, *D. M.*

Executed the within writ on Samuel H. Hempstead, attorney of the United States, for the district of Arkansas, by delivering to him a copy of this writ, and also the bill or petition of Glenn and Thruston, in the city of Little Rock, on the 7th day of February, 1846.

Service $2 00.

E. RECTOR, *U. S. Marshal*.
By S. M. RUTHERFORD, *D. M.*

Filed 30th March, 1846.

WM. FIELD, *Clerk*,
By D. W. CARROLL, *D. C.*

Answer.

UNITED STATES OF AMERICA,
District of Arkansas.

In the district court of the United States, for the district of Arkansas, sitting for the adjudication of land claims.

The answer of the United States, by S. H. Hempstead, their attorney for the district of Arkansas, to the petition of John Glenn and Charles M. Thruston, claiming under James Clamorgan, exhibited in said court against the United States.

This respondent, saving and reserving to himself every exception to the insufficiencies, errors, and uncertainties, contained in said petition, yet for answer thereto says, that he is wholly uninformed as to the several statements, allegations, matters, and things contained in the said petition, and this respondent denies the same, and requires full proof thereof, as well as of all other matters and things necessary or material to establish the validity of the said claim of said James Clamorgan.

This respondent further states, that by virtue of an act of Congress, of the 26th of May 1824, entitled "an act enabling the claimants to lands within the limits of the State of Missouri, and territory of Arkan-

1756.

sas, to institute proceedings to try the validity of their claims," the owners of said claims were required to institute proceedings in the proper court, to try the validity of said claim, within two years from the passage of said act, and to prosecute the same with due diligence, to a final decision within three years, or that said claim should be forever barred, both at law or in equity; and this respondent avers that inasmuch as the greater portion of said claim of said James Clamorgan was then and is now situate in the State of Missouri, the district court of the United States for the district of Missouri, had by virtue of said act of Congress exclusive cognizance to hear, try, and determine said claim; and the respondent further avers, that proceedings were not commenced and prosecuted to a final decree, in the time, and in manner and form as required by said act of Congress, and whereby the said claim was and is barred by limitation, and the petitioners debarred from all relief at the hands of this honorable court, and which limitation this responent pleads as a bar to this suit.

This respondent further says, that even if said suit was commenced in said district court of Missouri, within the time prescribed by said act of Congress, and by virtue of the provisions thereof, the claimants neglected and delayed the prosecution of said claim, before said court, within the time prescribed by said act of Congress, and by reason whereof the said claim became, and was, and is barred by virtue of the provisions of said act.

This respondent further says, that under and by virtue of the said act of Congress the said claim of the said James Clamorgan was brought before said district court of Missouri, and by such court rejected, which the respondent pleads in bar of this suit.

This respondent further submits to this honorable court, that the greater portion of said claim being situate in the State of Missouri, and cognizable in the district court thereof, that this honorable court has no jurisdiction to hear, try, and determine the same, at least for such part thereof as lies in the State of Missouri. This respondent having fully answered, &c., prays that the said petition may be dismissed, and costs adjudged against the petitioners, &c.

THE UNITED STATES DEFENDANTS.
By S. H. HEMPSTEAD,
Their attorney for the district of Arkansas.

Filed 3d April, 1846.

WM. FIELD, *Clerk*,
By D. W. CARROLL, *D. C.*

And afterwards, on the 20th August, 1846, the following was had, to wit:

GLENN & THRUSTON, complainants,
vs.
THE UNITED STATES, defendants.

On petition for confirmation of land claim.

This day came the United States, by their attorney, and on his mo-

tion filed, it is ordered by the court, that the said complainants be, and they are hereby, required to file a new and proper bond for the costs in this suit.

Motion.

GLENN & THRUSTON, vs. THE UNITED STATES. } Case 4.

District court of the United States, for the adjudication of land claims.

The defendants, by their attorney, come and show that the bond for costs taken by the clerk in this case is insufficient in this, that it is only conditioned for the payment of his own costs, whereas good and sufficient security for all costs and charges which might accrue in said suit should have been required.

Wherefore the defendants move that the petitioners be required to give good and sufficient security for all costs and charges which have and may accrue in this suit.

S. H. HEMPSTEAD,
United States attorney.

Filed 20th August, 1846. WM. FIELD, *Clerk.*

Bond.

Know all men by these presents, that we, Albert Pike and David J. Baldwin are held and firmly bound unto the United States of America in the penal sum of five hundred dollars, for the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and signed this 17th day of September, A. D. 1846.

Whereas on the 24th day of January, A. D. 1846, Glenn & Thruston filed their petition in the district court of the United States, for the district of Arkansas, for the adjudication of French and Spanish land claims against the United States of America, to obtain the confirmation of a certain Spanish land claim in said petition set forth.

Now, the condition of the above obligation is such, that if the said David J. Baldwin shall well and truly pay to the officers and persons respectively entitled thereto, all the costs and charges which have accrued, or may accrue, in said suit, and for which the said petitioners may be liable, then the above obligation shall be void, otherwise to remain in full force and virtue.

ALBERT PIKE, [SEAL.]
By DAVID J. BALDWIN, *Att'y.*
DAVID J. BALDWIN. [SEAL.]

Filed September 17th, 1846.

WM. FIELD, *Clerk,*
By D. W. CARROLL, *D. C.*

[The following should have been copied preceding the above bond for costs.] *Clerk.*

And afterwards, to wit, on the 17th September, 1846, the following order was had, to wit:

JOHN GLENN & C. M. Thruston, complainants,
vs.
THE UNITED STATES, defendants. } On petition.

On this day came the said complainants, by their solicitors, and on motion file a new bond for costs sustained in this suit.

And afterwards, to wit, on the 18th September, 1846, the following order was had, to wit:

JOHN GLENN and Charles M. Thruston, complainants,
vs.
THE UNITED STATES, defendants. } On petition.

On this day came the said complainants, by their solicitors, and on motion file their application, and move the court for a continuance of this cause, which is submitted to the court, and the court being fully advised concerning said motion, orders that the same be granted, and that this cause be, and the same hereby is, continued and postponed until the second Monday in October next. Whereupon, on motion of the complainants, it is ordered by the court, that N. R. Jennings, of New Orleans, in Louisiana, C. G. McHatton, and F. D. Conrad, of Baton Rouge, in Louisiana, Joseph D. Grafton, of St. Genevieve, in Missouri, and James H. Lucas, of St. Louis, in Missouri, be and they are hereby each respectively appointed commissioners to take the depositions of witnesses, to be read in evidence on the final hearing of this cause.

[The motion in writing which should follow the above cannot be found. This is immaterial, and so announced by Capt. Pike, attorney of complainants. *Clerk.*]

And afterwards, to wit, on the 13th October, 1846, the following order was had, to wit:

JOHN GLENN and Charles M. Thruston, complainants,
vs.
THE UNITED STATES, defendants. } On petition.

On this day came the said parties, by their solicitors, and an application in writing for a continuance of this cause being now shown to the court, and the court being fully advised concerning the said application, orders that this cause be, and the same is hereby, continued until the next term of this court.

Motion.

In the United States district court, for Arkansas district. October term, A. D. 1846.

GLENN & THRUSTON, under Clamorgan, petitioners,
vs.
The UNITED STATES, respondents.

Petition to confirm Spanish concession.

The petitioners move the court to continue this cause until March next, on the following grounds, &c.

PIKE & BALDWIN.

I, D. J. Baldwin, one of the solicitors in this cause do state, that this cause was postponed about the middle of September last, for the want of the original concession, or duly authenticated copy thereof. That I was not then, nor am yet informed as to whether the original or a copy will be produced; that documentary evidences in this cause are in the city of Baltimore, as I have been informed and believe; I am also informed and believe, that it will be necessary to take depositions of witnesses both in the States of Louisiana and Missouri; that it will be impossible to procure the evidence, and prepare this cause for a hearing before March next, at which time I expect there will be no impediment. That the delay already occasioned has been produced solely by the absence of counsel, who had given his particular attention to the cause.

That this continuance is not asked for delay; but that justice may be done. That I do not believe, from the information which I have, that justice can be done in the cause unless the same is continued till March next.

Respectfully submitted.

D. J. BALDWIN.

Filed October 13th, 1846.

WM. FIELD, *Clerk*,
By D. W. CARROLL, *D. C.*

And afterwards, to wit, on the 3d of April, A. D. 1847, the following order was had, to wit:

JOHN GLENN and Charles M. Thruston, complainants, vs. The UNITED STATES, defendants. } On petition.

And now, at this day, came the said complainants, by Pike & Baldwin, esqrs., their solicitors, and the said United States also come, by Samuel H. Hempstead, esq., district attorney, and on motion of the said complainants, it is ordered by the court that this cause be, and the same is hereby, continued until the next term of this court.

And afterwards, to wit, on the 10th of April, 1847, the following order was had, to wit:

JOHN GLENN and Charles M. Thruston, complainants, vs. The UNITED STATES, defendants. } On petition.

At this day came the said United States, by Samuel H. Hempstead,

esq., district attorney, and on motion [illegible] to the said complainants in this cause, which is noted of record.

Notice.

Glenn and Thruston, vs. The United States. } No. 4.

District court of Arkansas, for the adjudication of land claims.

The petitioners will please take notice, that at the next term of this court the United States will insist on the trial and final disposition of this cause.

S. H. HEMPSTEAD,
U. S. Att'y of Arkansas.

Filed April 10, 1847.

WM. FIELD, *Clerk*,
By A. H. RUTHERFORD, *D. C.*

And afterwards, to wit, on the 22d June, 1847, the following order was had, to wit:

Glenn and Thruston, complainants, vs. The United States, defendants. } On petition.

At this day came the said parties, by their said attorneys, and on motion of said complainants, file their motion, and move the court for a continuance of this case until the next term of this court, and the court being well and sufficiently advised of and concerning said motion, it is thereupon ordered by the court, that this cause be, and the same is hereby, continued until the next term of this court.

Motion.

In the United States district court, for Arkansas district, for adjudication of land titles.

Glenn and Thruston, under Jas. Clamorgan, petitioners, vs. The United States, respondents. } Petition to confirm, &c.

And the petitioners move the court to continue this cause till the next adjournment of the court, on the grounds following, to wit:

1st. That the testimony has not yet been fully prepared and taken, and the petitioners cannot safely go to trial without such testimony.

That the whereabouts of the witnesses were not known in time to obtain their testimony to be used at this adjournment of the court.

That the testimony is at St. Louis, Missouri, where it is expected it may be taken in season for the next adjournment.

That all the diligence has been used which could forward the case, but the shortness of the time given has prevented a preparation of the cause to this sitting of the court.

That this application is not made for delay, but that a full investigation may be had, and justice done in the premises.

PIKE & BALDWIN.

Filed June 22d, 1847.

WM. FIELD, *Clerk*,
By A. H. RUTHERFORD, *D. C.*

And afterwards, to wit, on the 13th September, 1847, the following order was had, to wit:

JOHN GLENN and Charles M. Thruston, complainants, vs. The United States, defendants. } Upon petition.

This day came the parties aforesaid, by their solicitors, and the said complainants move the court for leave to file their general replication to the answer and pleas of the said defendants, which was admitted by the consent of defendants' solicitor, and entered in short upon the record, and that the whole be at issue; and upon further motion of said complainants, and cause filed, it is ordered by the court that this cause [be,] and the same is hereby, continued.

Motion.

In the United States district court, for the adjudication of certain land claims, &c.

GLENN and Thruston, under James Clamorgan, complainants, vs. The United States, defendants.

Albert Pike, one of the solicitors of the complainants, states, that rather more than a year since he was informed by John Glenn, one of the complainants, that Luke E. Lawless, esq., of St. Louis, had in possession the original grant in this case, upon which the said Albert Pike and his partner took steps to obtain said original grant, and proof of its execution by establishing the signature thereto of Don Carlos Dehault Delassus; but before this could be effected, it was learned that said Luke E. Lawless had departed this life. That said Lawless was the only agent and attorney of the complainants in St. Louis, and upon his death it became necessary to correspond with said John Glenn, in order to ascertain what person in St. Louis would act as agent in procuring said grant and depositions. That being informed by said John Glenn that P. C. Morehead, esq., of St. Louis, had been employed as agent and attorney, the said Pike and his partner have forwarded a commission to said Morehead, with instructions to obtain from whosoever may have the custody of the papers of said Lawless the said original grant, and to take depositions to prove the same. That said commission had not been executed and returned, but the said Al-

bert Pike has no doubt that said original grant will be obtained, and all necessary proof made, before the next term of this court; and that, but for the death of said Lawless, the same would have been effected before this time; that a continuance is not asked for delay, but because, without it, justice cannot be done in this case.

ALBERT PIKE,
Solicitor for Complainants.

Filed 13th September, 1847.
Attest: WM. FIELD, *Clerk*.

And afterwards, to wit, on the 8th of May, 1848, the following order was had, to wit:

JOHN GLENN and C. M. Thurston, complainants,
vs.
THE UNITED STATES, defendants.

Petition for confirmation.

Now, at this day come the parties, by their respective solicitors, and thereupon the said complainants file herein their motion and affidavit for a postponement of this cause, and the court not being well and sufficiently advised in the premises, takes the said motion and affidavit under advisement.

(No order of continuance was made at this term, but this case was passed informally till next term.) , *Clerk*.

In the United States district court for Arkansas, for adjudication of land claims, May, A. D. 1848.

GLENN & THURSTON, under James Clamorgan, complainants,
vs.
THE UNITED STATES, defendants.

D. J. Baldwin, one of the solicitors in this cause, says on oath, that very shortly after the last continuance of this cause, there was made off and forwarded to P. C. Morehead, esq., of St. Louis, Missouri, a commission, directed to the commissioners in this cause at that place, with interrogatories annexed, upon which the examination of witnesses was to be taken, to establish the genuineness of the original grant in this case, and the various transfers to these complainants; that those papers were received by Mr. Morehead, who wrote back that he should be able to procure the proof by the present sitting of this court, and that he would forward the same at once.

About the time this session of court came on, I again, for the law firm of Pike & Baldwin, who prosecute this cause, again wrote to Mr. Morehead urging him to send the proofs at once, and unless very shortly done the case must fall for want of proof; no answer has been received to that letter, but one is daily expected; that I do not think that the cause

could now be granted with a due regard to justice or fairness; that the evidence will be shortly here; that it is material; that it consists of ancient documents, and the statement of ancient witnesses, and I am informed will make out a clear case for the petitioners; that the mails between this and St. Louis are quite irregular, and this circumstance furnishes the true reason why the depositions are not here; that a short postponement of this cause would be but an act of simple justice to the parties, who, I believe, are not guilty of neglect herein, but have done all that reasonable industry could accomplish; that this application is not made for mere delay, but that even handed justice cannot be done herein, unless a postponement of the hearing is made; that parties and counsel are anxious for the cause to be heard, and have done every thing they could possibly, to bring it on and have the cause ready.

D. J. BALDWIN.

Filed May 8th, 1849.

WM. FIELD, *Clerk*,
By JOHN P. PRIGG, *D. C.*

And afterwards, to wit, on the 19th day of October, A. D. 1848, the following order was had, to wit:

JOHN GLENN and Charles M. Thurston, complainants,
vs.
THE UNITED STATES, defendants.

This day came the parties, by their respective solicitors, and thereupon the complainant's solicitor filed his motion and affidavit in writing for a postponement of this cause to a future day of this term; whereupon, it is ordered by the court that the same be postponed until it shall be called up by the court.

Motion.

In the U. S. district court, Arkansas.

JOHN GLENN and Charles M. Thurston, under Clamorgan, plaintiffs,
vs.
THE UNITED STATES.

The plaintiffs pray the court here to postpone this cause to some day to be fixed by the court, and for showing cause therefor, Albert Pike, attorney of said plaintiffs, states to the court, that when the petition herein was filed, Luke E. Lawless, esq., of St. Louis, was the attorney of the plaintiffs for said claim in that State, and had possession of the original petition of Clamorgan, and of the original concession, and of, perhaps, other papers material in the case. That before the time arrived for taking depositions, or at least before this affiant could by due diligence commence taking them, the said Lawless died. That John Glenn,

with whom alone this affiant has had communication as to this case, and by whom he was employed, lives, and has always since this suit was commenced, lived in Maryland. That at the death of said Lawless, this affiant had to write to said John Glenn to get him to employ another lawyer in St. Louis, and learn from P. C. Morehead, esq., of St. Louis, the lawyer so employed, when the depositions could be taken. That this occupied a considerable time, and then it was discovered that said original petition and concession could not be found, after diligent search, among the papers of said Lawless, though all proper steps had been taken in order to take depositions to prove them to be genuine. That said papers were finally found during the last summer, and said Morehead then, as he has written this affiant, proceeded to take the depositions, has done so, and, as this affiant believes, deposited them in the post office, at St. Louis, to be forwarded to the clerk of this court, in time to have reached here before this time; that he founds this belief on the three letters of said Morehead, here shown to the court as part of this statement, and believes that all the depositions needed in said case have been taken, are now in the mail somewhere on the road between this place and St. Louis, and will soon reach here; and that when they reach here he will be able to proceed forthwith to the trial of this case; and he states that the plaintiffs, as well as he himself, are anxious for a trial of this case, and very reluctant to delay the same, and only ask a postponement because they are compelled thereto by the circumstances, and not for delay, but that the case may be fairly and fully tried.

ALBERT PIKE.

ARKANSAS, *sct.*

I, Albert Pike, do state on oath, that the matters stated above are true to the best of my knowledge and belief.

ALBERT PIKE.

Sworn to and subscribed in open court, October 19th, 1848.

WM. FIELD, *Clerk*,
By JOHN P. PRIGG, *D. C.*

Filed 19th October, 1848.

WM. FIELD, *Clerk*,
By JOHN P. PRIGG, *D. C.*

And afterwards, to wit, on the 30th October, 1848, the following order was had, to wit:

JOHN GLENN and Charles M. Thurston, complainants,
vs.
THE UNITED STATES, defendants.

This day come the parties, by their solicitors; whereupon, on motion of complainants' solicitors, it is ordered, that this cause be, and the same is hereby, continued until the next term of this court.

And on the 7th April, 1849, the following order was had in said cause, to wit, this day came the said complainants, by their solicitors, and on their motion it is ordered, that they have and leave is hereby granted them to have their depositions in this cause opened and published, which is done accordingly.

Depositions.

THE UNITED STATE OF AMERICA,
District of Arkansas.

In the district court of the United States, within and for the district of Arkansas, for the confirmation of French and Spanish land claims, the following, among other proceedings, were had on the 22d day of June, A. D. 1847, before the honorable Benjamin Johnson, judge.

On motion, it is ordered by the court that William Milburn, John Ruland, and Frederick R. Conway, esqs., of the city of St. Louis, in the State of Missouri, be and they are hereby appointed commissioners to take testimony in all causes now pending in this court for the confirmation of unconfirmed French and Spanish land claims, and that said commissioners be and they are hereby empowered to act, either separately or jointly, in taking testimony in the causes aforesaid.

A true copy from the record.

Attest: WM. FIELD, *Clerk*,
By A. H. RUTHERFORD, *D. C.*

THE UNITED STATES OF AMERICA,
District of Arkansas.

The President of the United States to William Milburn, John Ruland, and Frederick R. Conway, esqs., commissioners, &c., greeting:

You are hereby required [to cause] to come before you, or either or any one of you, all witnesses whatever, and them diligently examine on the foregoing and annexed interrogatories, on the part of said complainants, as well as of said defendants, in a certain cause now pending on the chancery side of said district court, in which John Glenn and Charles M. Thruston are complainants, and the United States are defendants; and that you then and there examine them on their corporeal oaths, first taken before you on the holy evangelists, upon the interrogatories aforesaid, and that you reduce their examinations to writing; and when you shall have so taken them, that you send the same, with this dedimus, closed up under your seal, to our said district court at the city of Little Rock without delay.

In testimony whereof Benjamin Johnson, judge of our said court, has caused the seal of said district court to be hereto affixed, SEAL.] this 29th day of June, A. D. 1847, and in the 71st year of American independence.

Attest: WM. FIELD, *Clerk*,
By A. H. RUTHERFORD, *D. C.*

Interrogatories to be administered to witnesses to be produced, sworn,

and examined, in a certain cause pending in the district court of the United States for the district of Arkansas, and at issue, wherein John Glenn and Charles M. Thurston, under James Clamorgan, are petitioners, and the United States, defendants, on the part of the petitioners.

1st. Do you know any of the parties to this cause, or either of them, and how long have you known them respectively? Declare truly your utmost knowledge, remembrance, and belief herein.

2d. Do you know, or can you set forth, any matter or thing relative to the said James Clamorgan, his business and employment, previous to the cession of Louisiana to the United States, and of his standing as a citizen of that province? Declare the whole truth to the utmost of your knowledge, remembrance, and belief.

3d. Do you know, or can you set forth, any matter or thing relative to the concession or grant of Don Carlos Dehault Delassus, of a large tract of land on the west bank of the Mississippi river, which is now embraced in the southeast corner of the State of Missouri and the northeast corner of the State of Arkansas, and lying chiefly in the latter State, to the said James Clamorgan; and what was the employment, rank, station, and authority of the said Delassus relative to the granting of lands under the laws of Spain, and the regulations, usage, and custom of the said province of Upper Louisiana; and what were the limits of the province of Upper Louisiana? Declare the whole truth according to the best and utmost of your knowledge, remembrance, and belief.

4th. Do you know, or can you state, whether or no said Clamorgan ever sold any portion of said grant or concession, and if so, to whom; and who is now the owner, and through and by whom did the present owners obtain their title? Declare fully and at large the utmost of your knowledge, remembrance, and belief.

5th. Look upon the papers and documents now presented to you for your inspection; describe them particularly. Do you know, and are you acquainted with, the signatures? If yea, set forth with particularity the utmost of your knowledge, remembrance, and belief in the matters herein inquired of.

6th. Do you know, or can you set forth, any other matter or thing which would be of benefit or advantage to the parties in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in this cause? If yea, set forth the same fully and at large in your answer to the best of your knowledge, recollection and belief, as if you had been thereto particularly interrogated.

PIKE & BALDWIN, *Solicitors.*

Filed May 7th, 1847.

WM. FIELD, *Clerk*,
By A. H. RUTHERFORD, *D. C.*

DISTRICT OF ARKANSAS, *sct.*

I, William Field, clerk of the district court of the United States, within and for the district aforesaid, do hereby certify, that the above

and foregoing interrogatories, from one to six inclusive, are true copies from the originals now on file in my office, in the cause mentioned in the caption thereof.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said district court, at [my] office in the city of Little Rock, this 29th day of June, A. D. 1847, and in the 71st year of American independence.

[SEAL.]

WM. FIELD, *Clerk*,
By A. H. RUTHERFORD, *D. C.*

Depositions of witnesses produced, sworn, and examined by me this twenty-ninth day of August, in the year eighteen hundred and forty-eight, at the office of P. C. Morehead, esq., in the city of Saint Louis, State of Missouri, by virtue of the annexed commission of the district court of the United States for the district of Arkansas, to take the depositions of witnesses to be used in a case now depending in said court, wherein John Glenn and Charles M. Thurston are complainants, and the United States, defendants.

Pascal L. Cerre being produced, sworn on the holy evangelists, and examined by me on the part of the complainants, deposeth and saith:

To the first interrogatory, the said deponent being of lawful age, saith, I do not know any of the parties to this suit.

To the second interrogatory the said deponent saith, I knew James Clamorgan well; his business and employment, previous to the cession of Louisiana to the United States, was that of a merchant; his standing as a citizen of the province was not very fair, but his influence with the governors was very great.

To the third interrogatory the said deponent saith, I understood that James Clamorgan owned a large tract of land below the Little Prairie, on the western bank of the Mississippi, fronting on the river, the exact quantity of the tract I do not know. Have always understood that Upper Louisiana extended from the mouth of the Arkansas river to Prairie du Chien. I believe that Charles Dehault Delassus, whom I knew to be governor of the Upper Louisiana, had the power and authority of granting lands under the laws of Spain, that being the usage and custom and regulations of the said province of Upper Louisiana.

To the fourth interrogatory the said deponent saith, I have no knowledge of any grant or sale by Clamorgan of the whole or any part of the said tract of land to any person, nor do I know who is the present owner or owners.

To the fifth interrogatory the said deponent saith, that all the signatures to the paper marked "exhibit A," purporting to be a petition of James Clamorgan to Charles Dehault Delassus, dated the first day of August, seventeen hundred and ninety-six, and a grant of land by the said Delassus to the said Clamorgan, dated New Madrid, August 9th, seventeen hundred and ninety-six, and a certificate of record of said petition and grant by the surveyor general of Upper Louisiana, signed severally by J. Clamorgan, Carlos Dehault Delassus, and Antoine Soulard, are genuine,

to the best of my knowledge, I having seen [illegible] write and sign their respective names on different occasions. The body of the concession or grant aforesaid is, to the best of my knowledge, in the handwriting of the said Delassus.

This deponent further saith, the paper marked "exhibit C," purporting to be a deed from J. Clamorgan, Pierre Chouteau, dated the second of May, eighteen hundred and nine, for certain lands situated on the river Mississippi, in the district of New Madrid, and fronting on the said river, in the handwriting of M. P. Leduc; that the signature of the deed is the signature of J. Clamorgan; that the signature of M. P. Leduc, as a witness to the said deed, is likewise genuine; and that the signature of Auguste Chouteau, to the acknowledgment of the said deed, is likewise genuine, I having seen M. P. Leduc and Auguste Chouteau write, and sign their respective names on different occasions.

And this deponent further saith, that he has examined the paper marked "exhibit D," purporting to be a deed, from P. Chouteau and M. P. Leduc, to Charles Dehault Delassus, dated the seventeenth of March, in the year eighteen hundred and fifteen, and that the signatures to the same are the genuine signatures respectively of P. Chouteau and M. P. Leduc; and that the signature of P. Chouteau, jr., one of the subscribing witnesses to the said deed, is likewise genuine; as to the signatures of the other subscribing witnesses I know nothing.

And this deponent further saith, that he has examined the paper marked "exhibit B," purporting to be a plat and certificate of survey of a tract of land containing five hundred and thirty-six thousand nine hundred and four arpens and twenty-nine perches, executed in January and February, eighteen hundred and six, and signed Ira Nash, deputy surveyor, and the memorandum of filing of said survey, per record, dated 28th February, eighteen hundred and six, and signed Antoine Soulard, surveyor general of the territory of Louisiana; and that the respective signatures of Ira Nash and Antoine Soulard are genuine signatures, I having seen the said Ira Nash and Antoine Soulard write and sign their respective names on different occasions.

To the sixth interrogatory the said deponent saith, I know nothing.

CERRE.

I, William Milburn, commissioner, appointed by the district court of the United States, for the district of Arkansas, to take depositions in all causes pending in said court, for the confirmation of French and Spanish land claims, do hereby certify, that Paschal L. Cerre, the deponent, whose place of residence is the city of Saint Louis, State of Missouri, was by me sworn on the holy evangelists, to testify the whole truth touching his knowledge of the matter in controversy in the cause aforesaid; that deponent was examined, and his examination reduced to writing, and subscribed by said deponent, in my presence, on the twenty-ninth day of August, in the year eighteen hundred and forty-eight, between the hours of nine in the forenoon and one in the after-

noon of that day, at the office of P. C. Morehead, esq., attorney at law, in the city of Saint Louis, in the State of Missouri.

Given and certified the twenty-ninth day of August, eighteen hundred and forty-eight.

WILLIAM MILBURN, *Com'r*,
By JOHN P. PRIGG, *D. C.*

Deposition of a witness produced, sworn, and examined by me, on this thirty-first day of August, in the year of our Lord one thousand eight hundred and forty-eight, at the house of Silvester Labadee, esq., in the city of Saint Louis, State of Missouri, by virtue of the annexed commission of the district court of the United States, for the district of Arkansas, to take the depositions of witnesses, to be read in a case now depending in said court, wherein John Glenn and Charles M. Thruston are complainants, and the United States are defendants; Silvester Labadie being produced, sworn on the holy evangelists, and examined by me, on the part of the complainants, deposeth and saith, being of lawful age, and a resident of the city of Saint Louis.

To the first interrogatory annexed. I do not know any of the parties to this suit.

To the second annexed interrogatory this deponent saith, I knew James Clamorgan, in the capacity of a man of business, very well; he was a man of great enterprise, engaged in trade with the Indians, and in mercantile pursuits in Saint Louis, previous to the cession of Louisiana to the United States; he led a very retiring life, independent of business; he was a peaceable man, and considered as a good citizen.

To the third interrogatory this deponent saith, I know nothing of the grant designated in this interrogatory, except that I remember having seen such a grant in some office in Saint Louis, at [the] house of Mr. Leduc's father-in-law, said Leduc being the secretary of the Governor Delassus; I knew Charles Dehault Delassus very well; he came to Saint Louis, from New Madrid, to supersede Don Geno Trudeau as lieutenant governor of Upper Louisiana; it was always considered that the lieutenant governor, as the representative of the King, had the right to make concessions of land, without limit as to quantity, in his province; the province of Upper Louisiana was always considered to extend from the mouth of the Arkansas river up to the British possessions in the north.

To the fourth annexed interrogatory this deponent saith, I have heard that James Clamorgan sold concession, designated in this interrogatory, to Peter Chouteau, jr.; I do not know who is now the owner of the said concession.

To the fifth interrogatory this deponent saith, I have examined the paper marked "exhibit A," and purporting to be the petition of James Clamorgan to Charles Dehault Delassus, dated the first day of August, seventeen hundred and ninety-six; and a grant of land by the said Delassus to the said Clamorgan, dated New Madrid, August ninth, seventeen hundred ninety-six, and the certificate of record of the said petition

and grant, by the surveyor general of Upper Louisiana, and that the signatures of J. Clamorgan, Carlos Dehault Delassus, and Antoine Soulard, to said petition, grant, and certificate, are the genuine signatures of the said persons, respectively, to the best of my knowledge and belief, I having frequently had occasion to see the said persons write their respective names. This deponent further saith, I have examined the paper marked "exhibit C," purporting to be a deed from J. Clamorgan to Pierre Chouteau, dated the second of May, eighteen hundred and nine, for certain lands situated on the river Mississippi, in the district of New Madrid, and fronting on the said river; that said deed is in the handwriting of M. P. Leduc; that the signature to the deed is the genuine signature of James Clamorgan; that the signature of M. P. Leduc, as a subscribing witness to said deed, is the genuine signature of said Leduc; and that the signature of Auguste Chouteau to the acknowledgment of said deed is likewise genuine, to the best of my knowledge and belief, I having seen said persons respectively sign their names on several occasions; I think that the signature of Mr. Alex. Papin, the other subscribing witness to the said deed, is genuine, but am not so sure.

To the sixth interrogatory this deponent saith, I know nothing.

In further answer to the second annexed interrogatory this deponent saith, J. Clamorgan had very extensive views in reference to exploring the back country and opening new sources of trade; and to carry out these views obtained the concession of very great and extensive privileges from the governor general of Louisiana. STE. LABADIE.

I, William Milburn, commissioner appointed by the district court of the United States, for the district of Arkansas, to take depositions in all cases pending in said court for the confirmation of French and Spanish land claims, do hereby certify, that Silvester Labadie, the deponent, whose place of residence is the city of Saint Louis, in the State of Missouri, was by me sworn on the holy evangelists to testify the whole truth of his knowledge touching the matter in controversy in the cause aforesaid; that deponent was examined, and his examination reduced to writing, and subscribed by said deponent in my presence, on the thirty-first day of August, in the year eighteen hundred and forty-eight, between the hours of nine in the forenoon, and one in the afternoon, at the dwelling-house of Silvester Labadie, the deponent, in the city of Saint Louis, State of Missouri.

Given and certified the thirty-first day of August, eighteen hundred and forty-eight.

WILLIAM MILBURN, *Commissioner*.

Commissioner's fee, twenty dollars—charged to and assumed by Attorney Morehead.

WILLIAM MILBURN.

Opened, published, and filed, 6th April, 1849.

WM. FIELD, *Clerk*,
By JOHN P. PRIGG, *D. C.*

UNITED STATES.

UNITED STATES OF AMERICA,
District of Arkansas.

Pleas had before the honorable Benjamin Johnson, judge of the district court of the United States, sitting for the adjudication of unconfirmed French and Spanish land claims, September 18th, 1846.

JOHN GLENN and CHARLES M. THURSTON, complainants, versus THE UNITED STATES OF AMERICA, defendants. } On petition.

On this day came the said complainants, by their solicitors, and on motion filed their application, and moved the court for a continuance of this cause, which is submitted to the court; and the court, being fully advised concerning said motion, orders that the same be granted, and that this cause be, and the same is hereby, continued and postponed until the second Monday in October next.

Whereupon, on motion of the complainants, it is ordered by the court, that N. R. Jennings, of New Orleans, in Louisiana, C. G. McHatton and F. O. Conrad, of Baton Rouge, in Louisiana, Joseph D. Grafton, of St. Genevieve, in Missouri, and James H. Lucas, of St. Louis, Missouri, be, and they are hereby, each respectively appointed commissioners to take the depositions of witnesses, to be read in evidence on the final hearing of this cause.

A true copy from the record.

Attest:

WM. FIELD, *Clerk*,
By D. W. CARROLL, *D. C.*

UNITED STATES OF AMERICA,
District of Arkansas.

The President of the United States of America, to James H. Lucas and Joseph D. Grafton, esqrs., or either of them, greeting:

You, and each or either of you, are hereby commanded to cause to come before you any witnesses whatsoever that may be designated unto you, and them diligently examine, separately and distinctly, upon their respective corporeal oaths, first by you to be duly administered, upon the annexed interrogatories, as well in behalf of the complainants as of the defendant, in a certain cause now depending in the U. S. district court, for the district of Arkansas, for the adjudication of unconfirmed French and Spanish land claims, wherein John Glenn and Charles M. Thruston, claiming under James Clamorgan, are complainants, and the United States of America are defendants; and that you reduce their examinations, respectively, to writing; and, when you shall have so taken them, certify the same under your hand, and send the same, with this commission closed up under your hand, to our said district court, at Little Rock, Arkansas, without delay.

In testimony whereof Benjamin Johnson, esquire, judge of our said court, hath caused the seal of said district court to be hereto affixed, this 22d day of January, A. D. 1849, and the 73d year of American independence. [L. S.]

WM. FIELD, *Clerk*,
By D. W. CARROLL, *D. C.*

Interrogatories to be administered to witnesses to be produced, sworn, and examined, in a certain cause now depending in the district court of the United States, for Arkansas district, and at issue, wherein John Glenn and Charles M. Thruston, under James Clamorgan, are petitioners, and the United States are defendants:

1st. Do you know any of the parties to this cause, or either of them; and how long have you known them, respectively? Declare truly your utmost knowledge, remembrance, and belief herein.

2d. Do you know, or can you set forth, any matter or thing relative to the said James Clamorgan, his business and employment, previous to the cession of Louisiana to the United States, and of his standing as a citizen of that province? Declare the whole truth, to the best of your knowledge, recollection, and belief.

3d. Do you know, or can you set forth, any matter or thing relative to the concession or grant, by Don Carlos Dehault Delassus, of a large tract of land on the west bank of the Mississippi river, which is now embraced in the southeast corner of the State of Missouri, and the northeast corner of the State of Arkansas, lying chiefly in the latter, to the said James Clamorgan; and what the employment, rank, station, and authority of said Delassus, relative to the granting of lands under the laws of Spain, and the regulations, usage, and customs of the said province of Upper Louisiana; and what were the limits of the province of Upper Louisiana? Declare the whole truth, according to the best and utmost of your knowledge, remembrance, and belief.

4th. Do you know, or can you state, whether or no said Clamorgan ever sold any portion of said grant or concession; and if so, to whom; and who is now the owner; and through and by whom did the present owners obtain their title? Declare, fully and at large, the utmost of your knowledge, remembrance, and belief.

5th. Look upon the papers and documents, now presented to you for your inspection. Describe them particularly. Do you know, and are you acquainted with, the signatures? If yea, set forth, with particularity, the utmost of your knowledge, remembrance, and belief, in the matters herein inquired of.

6th. Do you know, or can you set forth, any other matter or thing which would be of benefit or advantage to the parties in this cause, or either of them, or that may be material to the subject of this your examination, or to the matters in this cause? If yea, set forth the same fully and at large in your answer, to the best of your knowledge, recollection, and belief, as if you had been thereto particularly interrogated.

PIKE & BALDWIN, *Solicitors.*

UNITED STATES OF AMERICA,
District of Arkansas.

In testimony that the foregoing pages, from 1 to 4 inclusively, are truly copied from the records of the district court of the United States, for the district of Arkansas, for the adjudication of unconfirmed French and Spanish land claims, and contains the order of said court, and interrogatories for taking depositions in the above mentioned cause, together with the commission therefor.

I, William Field, clerk of said district court, hereunto set my hand and affix the seal of said court, this 22d day of January, [SEAL.] A. D. 1849, and the 73rd year of American independence.

WM. FIELD, *Clerk*,
By D. W. CARROLL, *D. C.*

The deposition of Eugene Miltenburger, produced, sworn, and examined before me, at my office, in the city of St. Louis, State of Missouri, being of lawful age, on the part of the plaintiffs, and by authority of a commission to me directed, from the district court of the United States for the district of Arkansas; the deponent, a resident of the city of St. Louis, Missouri, answers and says:

That he knows the handwriting of Pierre Chouteau and M. P. Leduc, whose names are subscribed to a deed hereto attached as exhibit L, as parties thereto, and that said signatures are the handwriting of the said Pierre Chouteau and M. P. Leduc; and further says, that he has seen said Pierre Chouteau and M. P. Leduc write; witness further states, that said deed, exhibit (L,) has been shown to him, that he has examined it, and that he knows the witness thereto, (George F. Strother,) is dead. The deed, marked exhibit L, purports to be executed first day of June, 1837, and purports to convey to John Glenn and Charles M. Thruston, in trust, a large tract of land; witness says that the witness Strother has been dead some eight or nine years; that he is not acquainted with signature of the witness Strother; and further this witness saith not.

E. MILTENBURGER.

Also the deposition of Charles L. Hunt, of lawful age, and resident of the city of St. Louis, Missouri.

The deed, marked exhibit L, being shown to said witness, Hunt, and by him carefully examined, he declares and says, that he was well acquainted with the witness to said deed, George Strother; that he has seen him write frequently, and that he is well acquainted with his handwriting, and knows the signature of said Strother to said deed, exhibit L, to be the proper signature of said George F. Strother, made by himself in person; he further says, that the said Strother has been dead for many years; and further saith not.

CHARLES L. HUNT.

STATE OF MISSOURI,
City of St. Louis.

This is to certify, that in the case of John Glenn and Charles M.

1765.

Thruston, against the United States of America, a suit now pending in the United States district court for the district of Arkansas, and in pursuance of a commission which issued from that court, directed to James H. Lucas, and Joseph D. Grafton, esqs., or either of them; that I, James H. Lucas, of the city of St. Louis, and State of Missouri, did cause to come before me at my office, in the city of St. Louis, on the 26th day of February, 1849, the following witnesses, Eugene Miltenburger and Charles L. Hunt, both being of lawful age, who were produced on the part of complainants, and who being by me examined separately and distinctly, upon their respective corporeal oaths, first by me duly administered upon the annexed and foregoing interrogatories, did make the answers contained in their respective depositions as here above taken down in writing, and by them respectively attested.

In witness whereof I have hereunto set my hand, this 26th day of February, 1849.

JAMES H. LUCAS.
Commissioner.

Opened, (published,) and filed, 7th April, 1849.
WM. FIELD, *Clerk*,
By JOHN P. PRIGG, *D. C.*

Exhibit A.

WILLIAM MILBURNE,
Commissioner.

A Monsieur:

Monsieur Don Charles Dehault Delassus, lieutenant colonel au regiment fixe de la Louisiane, et lieutenant gouverneur de la Nouvelle Madrid et dépendance.

Jacques Clamorgan, neg't, demeurant en la ville de St. Louis, a l'honneur de vous exposer qu'il auroit été vivement encouragé, par son excellence, Mr. le Gouverneur General de cette province, pour former l'etablissement d'une manufacture de cordage, propre et convenable à l'usage des vaisseaux de sa Majesté et specialement pour les besoins de Havane, où son excellence desire que le supliant les fassent passer sous sa protection, conformement aux avis qu'il vous en a donné, pour que dans touts les cas le supliant puisse avoir recours à vos bontes, pour le favoriser de tous vos pouvoirs dans une entreprise qui peut devenir très importante à la prosperité de cette dependance, et très lucrative par la suite à tous les habitans de cette haute Louisiane; d'autant mieux que le supliant se trouve lié de correspondance et d'intérêt avec une puissante maison du Canada, qui peut lui procurer par la suite au nombre suffisant de cultivateurs pour enseigner, en ces lieux, la maniere de travailler le chauvre et en fabriquer les differents cordages de la façon la plus parfaite, âfin de repondre par là aux vues du gouvernement general qui en desire l'entréprise par tous les moyens justes et honnêtes qu'il sera

possible de mettre en usage, pour dispenser sa Majesté de tirer à l'avenir de l'etranger, cet objet important à l'equipement de ses vaisseaux; c'est dans cette esperance que le supliant a mis en activité les demandes les plus pressantes pour obtenir de ses correspondants de Montreal un nombre considerable de gens propres à cette culture, que la necessité exige d'attirer en ce lieu, quoique dans ce moment les circonstances politiques du Canada semblent s'y opposer; mais que des tems plus heureux pourront indubitablement effectuer à l'avenir; nonobstant quoi le supliant est oblige de s'assurer d'avance au près de vous, Monsieur, d'un titre qui garantisse la propriété d'une quantité de terre cultivable, et proportionée à ses vues, pour former un vaste établissement des que les moments paraitront favorables à son entreprise, et des que ses correspondants pourront sans compromettre leur delicatesse, faire émigrer en ce lieu la quantité de sujets necessaires à donner naissance à cette culture si desirée par le gouvernement.

D'après l'exposé du supliant, Monsieur, et d'après les recomandations particulieres de son excelence, le gouverneur general de la province, il espere que vous voudrez bien lui accorder la quantité de terre qu'il desire obtenir, autant pour le favoriser dans l'éxecution de toût ce qui pourra contribuer à la prosperité future de son projèt, comme pour lui faciliter le moyen d'attirer par la suite de chez l'étranger, une emigration de cultivateurs qui ne pourra peut-être s'obtener qu'après un laps de tems considerable, sur des promesses de recompense que le supliant sera obligé d'accomplir en leur faveur. Pour raison de quoi, il vous suplie de lui concéder, au nom de sa Majesté, la portion de terre qui se trouve sur le côté de la rive occidentale du fleuve Mississippi, à prendre depuis le lieu qui est vis-à-vis le haut d'une isle située à cents arpents environ plus bas que la Petite Prairie, laquelle est à peu pres trente milles de distance plus bas que le vilage de la Nouvelle Madrid, en descendant le courant, et continuan de le descendre, jusqu'à ce que sur le même côté occidental, où soit placé en face de l'entrée vulgairement connue sous le nom de riviere à Carbono, dont l'embouchure est sur la rive orientale du Mississippi, àfin que du dit lieu ainsi qu'il est designé cy-devant, situé en face de la susdite riviere Carbono. Il soit tiré en avançan dans la profondeur du sudouest où dependance, une ligne qui devra se prolonger paralelement avec cette qui devra être tirée du lieu qui est situé vis-à-vis le haut de l'isle qui se trouve, ainsi qu'il est dit cy-dessus, à cent arpents environ plus bas que le sus-ditte Petite Prairie, pour continuer egalement la prolongation de ces deux sus-dittes lignes de profondeur dans la dependance du dit air-de-vent du sud-ouest, et servir de borner à chacun de ces côtés opposés jusqu'à ce que l'extremité de ces dittes deux lignes, soyent sufisement prolonger pour atteindre sur la même direction le bord des branches de la riviere St. François les plus eloignés du fleuve Mississippi; lesquels bords de riviere St. François serviront de borne et de limite au troisième côté de la terre demandée, et les bords du Mississippi formeront le quatrième, à commencer depuis le haut de la sus-ditte isle de la Petite Prairie, dont il est parlé cy-dessus, en descendan le courant du côté occidental,

jusqu'au lieu situé en face de la [illegible] rivière Carbono ; àfin que des qu'il sera au pouvoir du supliant. Il puisse établir et faire choix dans cette portion de terre demandée, celles qui seront les plus convenables à mettre en usage pour la culture du chauvre, attendu qu'une grande partie des mêmes terres se trouve noyée par des marais et pays bas impracticables qui empêchent de pouvoir fixer des etablissements dans toute l'étendue ; le tout pour que le supliant en puisse jouir et disposer à toujours comme de choses à lui propre, ses hoirs ou ayant cause, même de les distribuer ou en partie, se bon lui semble, en faveur de telle ou telles personnes qu'il jugera à propos pour parvenir autant qu'il dependra de lui à l'acomplissement de son projèt ; et le supliant ne discontinuera de rendre grace à vos bontés.

Fait à la Nouvelle Madrid, ce premier jour du mois d'Août, de l'année mil sept cent quatre vingt seize.

J. CLAMORGAN.

A.—No. 2.

NUEVA MADRID, *a* 9 *de Agosto*, 1796.

Visto, por el expuesto contenido en esta peticion constare de me los medios del expediente y su nueva sociedad, con la casa de Tood, que podra facilitarle el acierto de la empressa que la propone, cuyo provecho recuera si se logra en parte a beneficio de este remoto pays y miserable por la poca poblacion existente actualamente, y ateniendo a las recomendaciones particulares que me ha comunicado el Señor Baron de Carondolet, gr. general de estas provincias, quando ha tenido a bien el nombrar de comandante de este puesto y sus dependencias, " de buscar por todos medios el modo de aumentar la poblacion y animar la agricultura, en todos sus ramos, y particularmente la del cananio" paraciendome las proposiciones que hace el exponiente conducentes al logro de esta ultima recomendacion. En esta virtud se concedo para el y sus herederos la tierra que solicita en el paraje y en los mismos terminos que piede, si no perjudica a nadie, y asi que la *ixo* estableciendo la mandara apear, no obligandolo a que lo verifique luego, por ser una extencion demasiado espacioso que le ocasionaria un gasto mioso si lo verificase antes de la llegada de las familias que debera hacer venir del Canada, pero asi que estas lleguen y las ponga en possession debera asegurarse sa propriedad mediante las operaciones de apeo para despues recursir al señor governador general para obtenir la aprobacion y el titulo en forma de esta su concession.

CARLOS DEHAULT DELASSUS.

Recorded in book No. 3, pages nine, ten, eleven, twelve, and thirteen, [at] St. Louis, [this] twenty-seventh of December, [in] the year one thousand eight hundred and five.

ANTOINE SOULARD,
Surveyor General, Ty. Louisiana.

No. of record, No. 7.

(*For plat marked Exh. D, 2; see original page 102.*)

I do certify that the afore plat represents a tract of land, containing four hundred and fifty-eight thousand nine hundred and sixty-three acres, or (five hundred and thirty-six thousand nine hundred and four arpens, twenty-nine perches,) lying on the forks of the St. Francis river, ——— miles below the Little Prairie, surveyed by me from the 30th of January last, to the 12th of the present month, for and at the request of James Clamorgan, who claims the same under a Spanish title. Beginning at two large sycamores, marked C, on the bank of the Mississippi, running up the same and following the meanders thereof to a large cotton wood, and two sycamores, marked C, at 195 poles west, and 5,847 poles north, from the beginning, crossing the river Pemiscoe, near the mouth thereof; then from the cotton wood and two sycamores aforesaid, opposite the middle of the Isle au Potier, running S. 45° W. 3,504 poles, to a sycamore and pacan wood on the bank of Pemiscoe, after crossing the same at 1,056 poles, and at 3,036 poles; then N. 45° W. 1,734 poles, to two elms, marked C, after crossing Pemiscoe, at 670 poles, and 1,020 poles; then S. 45° W. 6,023 poles, to the middle fork of St. Francis, running E. of S., crossing the same, and from thence keeping the same course, 3,710 poles, to a sycamore and hackberry, on the south bank of the east fork of the St. Francis river, running S. E.; then S. 10 W. 6,572 poles, down the said fork, crossing the same several times, to a sycamore and willow, marked C, on the bank of the river, and from thence to the beginning.

R. A. NASH, *Deputy Surveyor.*

Received for record, St. Louis, February 28, *February*, 1806.

ANTOINE SOULARD,
Surveyor General, Ty. Louisiana.

Recorded book C, page 181 and following. Rejected 19th.

Letter I, No. 2, Terre de la Petite Prairie sur la reviere St. François.

Exhibit D.

Sachent tous [ceux] qui ces présentes verront que moi, Pierre Chouteau, de la ville et comté de St. Louis, territoire [de] Missouri, pour prix et consideration de la somme de sept cent cinquante piastres, qui m'a été bien et duement payée par Charles Dehault Delassus, ainsi que je le reconnais par ces presentes, et de laquelle somme je le tiens quitte et decharge, lui, ses hoirs ou ayans causes, j'ai ce jourd'hui vendu, cédé, quitté, delaissé, abandonné, et transporté, comme par ces présentes je vends, cede, quitte, delaisse, abandonne et transporte, au dit Charles Dehault Delassus, ici present et acceptant pour lui, ses hoirs ou ayant causes, par Marie Philippe Leduc, son chargé de pouvoirs, tous les droits, titres, prétensions, reclamations, proprietés, noms, raisons, et actions, que j'ai, et puis avoir, sur un morceau de terre, conténant deux cent soixante-huit mille quatre cent quatre vingt quatorze arpens,



soixante-quatre perches et demie, sis et situé sur le fleuve Mississippi, comté de la Nouvelle Madrid, territoire ci-dessus, au bas de l'endroit appellé la Petite Prairie, faisant front au dit fleuve Mississippi, et par derniere tenant à la fourche ouest de la riviere St. François du côté du sud aux terres vacantes, et au côté du nord à une terre à moi appartenante, le morceau de terre ci-dessus étant la juste moitie d'une terre de plus grande quantité par moi acheté de Jacques Clamorgan le deux Mai, mil huit cent neuf, ainsi qu'il est constaté par acte de vente du dit Jacques Clamorgan à moi susdit Pierre Chouteau, enregistré en l'office du recorder du dit comté de la Nouvelle Madrid, livre numero cinq, pages deux cent soixante-treize et deux cent soixante-quatorze; laquelle moitié est à prendre dans la partie sud de la dite terre par moi acquise du dit Jacques Clamorgan, comme est ci-dessus dit, pour par le dit Charles Dehault Delassus, ses hoirs ou ayant causes, pour faire et disposer à son gré et volonté comme de chose à lui appartenante, avec tous les droits sur le dit morceau de terre à moi transporté par le dit Jacques Clamorgan par la vente ci-dessus mentionné, sans aucune garantie de ma part.

Et moi, Marie Philippe Leduc, en ma qualité de chargé de pouvoirs du dit Sieur Charles Dehault Delassus, accepte le presente vente pour le dit Charles Dehault Delassus, à des risques, perils et hazard connaissant parfaitement les titres de la ditte terre, et sans que le dit Charles Dehault Delassus puisse avoir aucun récours sur le dit Pierre Chouteau, ou ses hoirs, rembourserant de la somme ci-haut mentionné, ni pour aucune partie d'icelle quand même le titre manquerant.

En foi de quoi, nous sus-dits, Pierre Chouteau et Marie Philippe Leduc, en nos qualités respectives, avons signé et scellés ces présentes, à St. Louis, le dix-sept Mars, de l'année de nôtre Seigneur mil huit cent quinze.

P. CHOUTEAU, [L. S.]
M. P. LEDUC. [L. S.]

Signé, scellé, et delivré, en présence de—
B. Berthold,
P. Chouteau, Jun.

Missouri territory, ss.

Before me, the undersigned, one of the judges of the superior court, in and over the territory of Missouri aforesaid, personally came and appeared the within named Peter Chouteau, Mary Philip Leduc, who acknowledged the within instrument of writing to be their, and each of their, act and deed, hands and seals, for the purposes therein contained.

Given under my hand, at my chambers, in the town of St. Louis, territory aforesaid, this second day of December, in the year of our Lord one thousand eight hundred and fifteen, and of the American independence the fortieth.

ALEX. STUART.

Territory of Missouri,
County of New Madrid, sct.

On the thirtieth day of December, in the year 1815, received for

and recorded, the within instrument in writing, in record book No. 6, and pages 242, 243, 244, as is attested by

RICH. H. WATERS, [L. S.]
C. C. N. M. C.

Exhibit C.

Sachent tous ceux que ces presentes verront, que moi, Jacques Clamorgan, demeurant en la ville et district de St. Louis, territoire de la Louisiane, pour prix et consideration de la somme de quinze cent piastres, qui m'a été bien et duement payée par Mr. Pierre Chouteau du dit lieu; ainsi que je le reconnais par ces presentes, et de la quelle somme je le tiens quitte et décharge, lui, ses hoirs ou ayant causes, j'ai ce jourd'hui vendu, cédé, quitté, delaissé, abandonné et transporté, comme par ces presentes je vends, cede, quitte, delaisse, abandonne, et transporte, au dit Sieur Pierre Chouteau, ses hoirs ou ayant causes, un certain morceau de terre contenant cinq cent trente-six mille neuf cent quatre arpens vingt-neuf perches en superficie, situé sur le fleuve Mississippi, district de la Nouvelle Madrid, front au dit Mississippi, au bas de l'endroit appellé la Petite Prairie et par derriere à la fourche ouest de la riviere St. François, et des deux côtés au domaine, laquelle terre m'appartient comme m'ayant été concedée par Don Charles Dehault Delassus, lieutenant gouverneur de la Nouvelle Madrid et dépendances, le neuf Août, mil sept cent quatre-vingt seize, et arpentée du 30 Janvier ou 12 Fevrier, 1806; ainsi qu'il est amplement constaté par l'enregistrement des dites pièces en l'office du recorder pour les reclamations de terres de ce territoire, livre C, page 181 et suivantes, promettant garantir et preserver la dite terre de tous troubles, des dettes, donaires, hypothèques, et autres empêchements généralement tant de ma part que de celle de mes hoirs, executeurs, ou administrateurs, pour par le dit Sieur Pierre Choteau, ses hoirs ou ayant causes, en jouir, faire, et disposer, en son gré et volonté, et comme de chose à lui appartenante, et par lui legitimément acquise, à commencer la jouissance dès ce jourd'hui.

En foi de quoi j'ai signé et scellé ces presentes, en la ville, district, et territoire ci-dessus, le deuxième Mai, de l'année de nôtre Seigneur mil huit cent neuf.

J. CLAMORGAN. [L. S.]

Signé et scellé en presence de—
ALEXANDRE PAPIN,
M. P. LEDUC.

TERRITORY OF LOUISIANA,
District of St. Louis, ss.

Before the subscriber, one of the judges of the court of common pleas for the district of St. Louis, personally came the above named James Clamorgan, who acknowledged the within instrument of writing to be his free voluntary act and deed, hand and seal, for the purposes therein

mentioned, and, as such, desired the same to be recorded. Given under my hand and seal the day of the date of said act and deed.

AUG. CHOUTEAU.

TERRITORY OF MISSOURI,
County of New Madrid, sct.

On the 27th day of December, in the year 1814, received for, and the same day recorded the within instrument of writing, together with its endorsements, in record book No. 5, and pages 273 and 274, as is attested.

RICHARD H. WATERS,
Clerk, C. C. P. C. M. County.

And afterwards, to wit, on the 14th April, 1849, the following order was had, to wit:

JOHN GLENN and CHARLES M. THRUSTON, complainants,
vs.
The UNITED STATES, defendants.

Petition for confirmation [of] land claim.

This day came the said parties, by their respective solicitors, and the district attorney filed the exceptions of defendants to the depositions of complainants in this case; and thereupon this case came on for final hearing at this term, upon petition, answers, exhibits, and testimony; whereupon the case was argued by the respective solicitors of the parties, and submitted to the court for final decree; and the court, not being sufficiently advised in the premises, take the same under advisement.

Exceptions.

GLENN & THRUSTON
vs.
THE UNITED STATES.

In the district court for the adjudication of land claims, April term, 1849, for Arkansas district.

The United States, by S. H. Hempstead, their attorney for said district, excepts to the testimony taken and proof adduced in this cause by the petitioners, as follows, and pray for the rejection thereof, viz:

1st. Exhibit B, purporting to be a survey of the claim mentioned in the petition, is not so proved or authenticated as to entitle it to be read in evidence.

2d. It is a survey which does not conform to the grant.

3d. It is shown on the face thereof to be a mere private survey, made after the transfer of Louisiana to this Government, possessing no validity, and inadmissible in this suit.

4th. The sketch of certain townships prepared at the surveyor gen-

eral's office, at St. Louis, ... 6th, 1843, is irrelevant and inadmissible.

5th. To so much of the depositions, Paschal L. Cerre and Silvester Labadie, as to the authority or right of the lt. governor of Louisiana, to make grants, that depending upon written regulations and ordinances.

S. H. HEMPSTEAD,
United States attorney for Arkansas.

Filed 14th April, 1849.

WM. FIELD,
By JOHN T. TRIGG, *D. C.*

And afterwards, to wit, on the 23d April, 1849, the following was rendered in said cause, to wit:

Petition for confirmation, Spanish G.

JOHN GLENN and CHARLES M. THRUSTON, complainants,
vs.
THE UNITED STATES OF AMERICA, defendants.

This day come the parties by their solicitors, and the court being fully advised, delivered the following opinion, to wit:

In this case I do not deem it necessary to give reasons at length for the decree I shall render, because the decision must depend mainly upon principles already decided in the Winter case, and in the Devillemont case. It is true that this case is in some respects different, but that difference is rather formal than substantial.

I deem invalid upon two grounds:

1st. That the conditions of the grant were not complied with; and I will merely remark that I cannot subscribe to the argument, that it was a grant without conditions.

2ndly. That there was no authoritative survey of the grant, which was undoubtedly required by the Spanish regulations; and for my reasons on this point I refer to the opinion of this court in the case of the Heirs of Elisha Winter; nor do I deem the calls of the grant sufficiently certain to separate any land from the royal dominion without a survey.

On these two grounds the claim must be rejected.

Whereupon it is ordered, adjudged, and decreed that the petition in this case be, and the same is hereby dismissed, and it is further ordered and decreed that the petitioners pay all the costs in this case.

And thereupon the said complainants pray an appeal from this decree to the Supreme Court of the United States, and it is ordered that said prayer be, and the same is hereby, granted, and the appeal allowed.

[For plat see original, page 111.]

Plat of a Spanish grant of land from Don Charles Dehault Delassus, to James Clamorgan.
Done at New Madrid, Aug. 9th, 1796.
Filed, 12th Oct., 1848.

WM. FIELD, *Clerk*,
By JOHN T. TRIGG, *D. C.*

[For plat see original, page 112.]

SURVEYOR'S OFFICE, SAINT LOUIS,
6th April, 1843.

This sketch of fractional townships 16 & 17, R. 12, and frac. Ts. 16 & 17, R. 13, and of a part of frac. T. 18, R. 13, all north of the base line, and east of the 5th principal meridian, is correctly made out from the plats on file in this office. The position of the improvements, and the house of William Mitchell, on the S. E. frac. quarter of section 31, T. 17, R. 13; and the improvements, and the house of Thos. C. Powell, in section 6, T. 16, R. 13, are correctly laid down from the field notes of the surveys of the said townships, returned by Isaac Woods, deputy surveyor, under his contract of the 16th of December, 1840, which field notes have been examined, approved, and paid for, and are on file in this office.

The red lines A B, B, C, drawn from the apparent center of the village of Little Prairie, in T. 18, R. 13, extend southerly 100 French linear arpens, equal to 291.66 chains American measure.

[Signed,] SILAS REED,
Surveyor of P. L. Ill. & Mo.

Filed, 12th of October, 1848.

WM. FIELD, *Clerk*,
By JOHN T. TRIGG, *D. C.*

THE UNITED STATES OF AMERICA,
District of Arkansas, sct.

I, William Field, clerk of the district court of the United States, in and for the district of Arkansas, do hereby certify, that the foregoing transcript and maps contain a complete transcript of the record and papers on file in my office, in the case of Glenn and Thruston against the United States, upon petition for the confirmation of a Spanish grant of land.

In testimony whereof I have hereunto set my hand as clerk, and affixed the seal of said court, this nineteenth day of November, A. D. 1847, and the year of American independence the 74th

Attest. WM. FIELD, *Clerk*.